Y 4. B22/1:97-95

HUD FIELD REORGANIZATION, RIF'S AND PENDING LEGISLATION

ORIGINAL

HEARING

BEFORE THE

SUBCOMMITTEE ON
HOUSING AND COMMUNITY DEVELOPMENT

OF THE

COMMITTEE ON
BANKING, FINANCE AND URBAN AFFAIRS
HOUSE OF REPRESENTATIVES

NINETY-SEVENTH CONGRESS

SECOND SESSION

SEPTEMBER 21, 1982

Serial No. 97-95

Printed for the use of the
Committee on Banking, Finance and Urban Affairs

COMPLETED

U.S. GOVERNMENT PRINTING OFFICE
11-727 O WASHINGTON : 1982

HOUSE COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS

FERNAND J. ST GERMAIN, Rhode Island, *Chairman*

HENRY S. REUSS, Wisconsin
HENRY B. GONZALEZ, Texas
JOSEPH G. MINISH, New Jersey
FRANK ANNUNZIO, Illinois
PARREN J. MITCHELL, Maryland
WALTER E. FAUNTROY, District of Columbia
STEPHEN L. NEAL, North Carolina
JERRY M. PATTERSON, California
JAMES J. BLANCHARD, Michigan
CARROLL HUBBARD, JR., Kentucky
JOHN J. LAFALCE, New York
DAVID W. EVANS, Indiana
NORMAN E. D'AMOURS, New Hampshire
STANLEY N. LUNDINE, New York
MARY ROSE OAKAR, Ohio
JIM MATTOX, Texas
BRUCE F. VENTO, Minnesota
DOUG BARNARD, JR., Georgia
ROBERT GARCIA, New York
MIKE LOWRY, Washington
CHARLES E. SCHUMER, New York
BARNEY FRANK, Massachusetts
BILL PATMAN, Texas
WILLIAM J. COYNE, Pennsylvania
STENY H. HOYER, Maryland

J. WILLIAM STANTON, Ohio
CHALMERS P. WYLIE, Ohio
STEWART B. McKINNEY, Connecticut
GEORGE HANSEN, Idaho
JIM LEACH, Iowa
THOMAS B. EVANS, JR., Delaware
RON PAUL, Texas
ED BETHUNE, Arkansas
NORMAN D. SHUMWAY, California
STAN PARRIS, Virginia
ED WEBER, Ohio
BILL McCOLLUM, Florida
GREGORY W. CARMAN, New York
GEORGE C. WORTLEY, New York
MARGE ROUKEMA, New Jersey
BILL LOWERY, California
JAMES K. COYNE, Pennsylvania
DOUGLAS K. BEREUTER, Nebraska
DAVID DREIER, California

SUBCOMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

HENRY B. GONZALEZ, Texas, *Chairman*

FERNAND J. ST GERMAIN, Rhode Island
WALTER E. FAUNTROY, District of Columbia
JERRY M. PATTERSON, California
JOHN J. LAFALCE, New York
JAMES J. BLANCHARD, Michigan
DAVID W. EVANS, Indiana
STANLEY N. LUNDINE, New York
MARY ROSE OAKAR, Ohio
BRUCE F. VENTO, Minnesota
ROBERT GARCIA, New York
MIKE LOWRY, Washington
PARREN J. MITCHELL, Maryland
CARROLL HUBBARD, JR., Kentucky
NORMAN E. D'AMOURS, New Hampshire
CHARLES E. SCHUMER, New York
BARNEY FRANK, Massachusetts
WILLIAM J. COYNE, Pennsylvania
STENY H. HOYER, Maryland

J. WILLIAM STANTON, Ohio
CHALMERS P. WYLIE, Ohio
STEWART B. McKINNEY, Connecticut
THOMAS B. EVANS, JR., Delaware
JIM LEACH, Iowa
ED BETHUNE, Arkansas
MARGE ROUKEMA, New Jersey
JAMES K. COYNE, Pennsylvania
GEORGE C. WORTLEY, New York
GREGORY W. CARMAN, New York
BILL McCOLLUM, Florida
BILL LOWERY, California
DOUGLAS K. BEREUTER, Nebraska
DAVID DREIER, California

CONTENTS

Page

House Joint Resolution 480, text of 17
House Report 97-590, text of 19

STATEMENTS

Abrams, Philip 49
Pierce, Hon. Samuel R., Secretary, Department of Housing and Urban Development, accompanied by Judith L. Tardy, Assistant Secretary for Administration, and Philip Abrams, Assistant Secretary 23
Tardy, Judith L 56

ADDITIONAL MATERIAL SUBMITTED FOR INCLUSION IN THE RECORD

Gonzalez, Chairman Henry B.:
Additional questions, with responses of Secretary Pierce 61
Letter, dated September 3, 1982, from HUD Assistant Secretary for Administration Judith L. Tardy 14
Response of Chairman Gonzalez, dated September 13, 1982 16
Letters requesting the appearance of Secretary Pierce at subcommittee hearing:
Dated June 25, 1982 9
Dated August 26, 1982, from House Banking Committee Chairman Fernand J. St Germain, Chairman Gonzalez, and Congressman Hoyer 12
Memorandum from Mark Goldhaber of HUD's Office of Legislation and Congressional Relations, dated July 29, 1982, with attached report "HUD Staffing Reduction Activity," dated July 23, 1982 10
Opening statement 3
Pierce, Hon. Samuel R.:
Letter, dated October 7, 1982, to Congressman Parren J. Mitchell in response to data on the impact of HUD RIF on minority employees 43
Response of Congressman Mitchell 45
Prepared statement 31
Response to additional questions from—
Chairman Gonzalez 61
Congressman Stan Lundine 74
Congressman Bruce F. Vento 51

HUD FIELD REORGANIZATION, RIF'S AND PENDING LEGISLATION

TUESDAY, SEPTEMBER 21, 1982

HOUSE OF REPRESENTATIVES, SUBCOMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT, COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS,

Washington, D.C.

The subcommittee met, pursuant to call, at 9 a.m., in room 2128, Rayburn House Office Building, Hon. Henry B. Gonzalez (chairman of the subcommittee) presiding.

Present: Representatives Gonzalez, Vento, Mitchell, D'Amours, Schumer, Hoyer, Wylie, McKinney, Leach, and James K. Coyne.

Chairman GONZALEZ. The subcommittee will please come to order.

I will begin with an opening statement that probably will serve for outlining whatever questions would be raised. Whatever ones I have subsequently I will submit for the record.

Thank you, Mr. Secretary, for accepting our invitation to be here this morning. As you know, we have been trying to see if we could meet ever since May.

Our hearing today is to explore several areas of concern.

First, there is a need to know why the Secretary deems it necessary to go through a new reorganization of the Department and why it is necessary to run a reduction in force at a time when the Department is well within its personnel ceilings.

We are very conscious of the fine line of demarcation between the policymaking, which is legislative, and the administrative branch of the Government, and do so only because of the impact of what appears to be a policy on the administration of the congressionally approved programs, some of them programs and policies of many years.

It appears that the reorganization is merely a method for justifying large-scale staff cuts. Likewise, the reduction in force seems to have more to do with the overseer's desire to impress the leaders at OMB than it does with helping the field hands do an efficient job.

Both the reorganization and the reduction in force will have a disproportionate impact on the Department's female and minority employees, and both will grossly undermine morale on a departmentwide scale.

Neither action seems to bear in mind any wish to make the Department more effective. In fact, the whole direction of the administration seems to be to wipe out whatever forward momentum is remaining in its programs and its basic mission.

Second, there are questions about the Department's policy decisions to implement rent increases in assisted housing units and doing so well ahead of any requirement in law.

The Reconciliation Act recognized that rent increases would have to allow tenants time for adjustment, but the Department appears to want to cut that time to the barest minimum possible under law. Tenants who can't pay for their rent in food stamps ask me how the Department can consider food stamps as cash income. My colleagues want to know why the Department feels that it cannot accept the review process of section 701.

The Department is also suddenly willing to see section 202 units sold off, which of course takes those units away from the low- and moderate-income tenants who now occupy them.

With regard to the efforts to raise the rents of assisted housing tenants, the efforts to sell off section 202 properties, and all manner of similar moves, there is a common thread: to cut the Government's cost in these programs and to force those costs on people who cannot afford to carry them.

The fiscal goal has become more important than the goal of providing housing. The fundamental concern for fairness and decency cannot be accommodated, and usually is not even considered.

Obviously there is very little ground for agreement between the majority of this subcommittee and the administration. Still, we have a common responsibility. We have to work together in any way that we can to meet that responsibility.

In addition to the concerns I have mentioned, it is necessary to see if there is any ground for agreement on a 1982 housing bill. For several weeks I have been working with the minority, seeking some elements of basic agreement. Naturally it is important that we have some positive input from the administration on this matter.

Therefore, I hope and expect that the Secretary will today outline whether the administration is willing to accept any housing production program at all, beyond its token agreement to a few units for the elderly and handicapped.

It is clear that the voucher program would not house anyone who is not already occupying assisted housing. Our problem is not only that the poor can't find affordable housing, it is that we have more poor today than we did 2 years ago, and many more Americans are in the process of becoming poor. In addition, the long-term prospects of the housing industry are dismal.

In order to meet these needs, the majority of the subcommittee favors continuation of several housing production programs. I would hope that the administration is now willing to accept some production efforts, particularly since the budget resolution, which it supported, assumed that production programs would continue, except in my opinion at a miserly level. I would welcome some positive recommendations from the Secretary.

Some years ago there was a film that featured a character named Hud. It seems that Hud was a selfish, arrogant, bull-headed, insensitive, and generally miserable person. His father couldn't understand why it was that Hud went around destroying himself and everybody else. Finally the old man confronted his son sadly and said, "The trouble with you, Hud, is that you just don't give a damn."

That seems to be the case, in my opinion, with HUD today. It doesn't give a damn about its employees, its mission, or the people who look to it for leadership. It is time, and past time, for HUD to give a damn.

[Chairman Gonzalez' opening statement follows:]

September 21, 1982

Chairman Gonzalez' Opening Statement

Our hearing today is to explore several areas of concern.

First, there is a need to know why the Secretary deems it necessary to go through a new reorganization of the Department, and why it is necessary to run a reduction in force at a time when the Department is well within its personnel ceilings.

It appears that the reorganization is merely a method for justifying large scale staff cuts. Likewise, the reduction in force seems to have more to do with the overseer's desire to impress the masters at OMB than it does with helping the field hands do an efficient job. Both the reorganization and the reduction in force will have a disproportionate impact on the Department's female and minority employees, and both will grossly undermine morale on a Department-wide scale. Neither action seems to bear in mind any wish to make the Department more effective. In fact, the whole direction of the Administration seems to be to wipe out whatever forward momentum is remaining in its programs and mission.

Second, there are questions about the Department's policy decisions to implement rent increases in assisted housing units, and doing so well ahead of any requirement in law. The Reconciliation Act recognized that rent increases would have to allow tenants time for adjustment, but the Department appears to want to cut that time to the barest minimum possible under law. Tenants who can't pay for their

DOCUMENT MED FROM
COPY

rent in food stamps ask me how the Department can consider food stamps as cash income. My colleagues want to know why the Department feels that it cannot accept the review process of section 7(o).

The Department is also doing all that it can to cause the sale of section 202 units.

With regard to the efforts to raise the rents of assisted housing tenants, the efforts to sell off 202 properties, and all manner of similar moves, there is a common thread: to cut the government's cost in these programs, and to force those costs on people who cannot afford to carry them. The fiscal goal has become more important than the goal of providing housing. The fundamental concern for fairness and decency can't be accommodated, and usually is not even considered.

Obviously, there is very little ground for agreement between the majority of this Committee and the Administration. Still, we have a common responsibility. We have to work together in any way that we can to meet that responsibility.

In addition to the concerns I have mentioned, it is necessary to see if there is any ground for agreement on a 1982 housing bill. For several weeks, I have been working with the minority seeking some elements of agreement. Naturally, it is important that we have some positive input from the Administration on this matter. Therefore, I hope and expect that the Secretary will today outline whether the Administration is willing to accept any housing production program at all, beyond its token agreement to a few units for the elderly and handi-

MICROFILMED FROM
BEST AVAILABLE COPY

capped. It is clear that the voucher program would not house anyone who is not already occupying assisted housing. Our problem is not only that the poor can't find affordable housing -- it is that we have more poor today than we did two years ago, and many more Americans are in the process of becoming poor. In addition, the long term prospects of the housing industry are dismal. In order to meet those needs, the majority of the Committee favors continuation of several housing production programs. I would hope that the Administration is now willing to accept some production efforts, particularly since the budget resolution -- which it supported -- assumed that production programs would continue, albeit at a miserly level. I would welcome some positive recommendations from the Secretary.

Some years ago, there was a film that featured a character named Hud. It seems that Hud was a selfish, arrogant, bull-headed, insensitive, and generally miserable person. His father couldn't understand why it was that Hud went around destroying himself and everybody else. Finally, the old man confronted his son sadly and said, "The trouble with you, Hud, is that you just don't give a damn."

That seems to be the case with HUD today. It doesn't give a damn about its employees, its mission, or the people who look to it for leadership.

It is time, and past time, for HUD to give a damn.

MICROFILMED FROM
BEST AVAILABLE COPY

11-727 O—82——2

Chairman GONZALEZ. Mr. McKinney?

Mr. MCKINNEY. Mr. Chairman, I didn't see the movie, so I think I will listen to the Secretary.

Secretary PIERCE. Thank you very much.

Mr. MITCHELL. Mr. Chairman?

Chairman GONZALEZ. Mr. Mitchell?

Mr. MITCHELL. Mr. Chairman, Mr. Secretary, we are almost a million light years apart in terms of your conception, and mine, of the role of the Federal Government in providing housing. These are legitimate differences.

I know you personally, but in your capacity and mine we have been political adversaries many, many times. We have bitterly opposed each other on many occasions, but I want to say for the record that I do respect your professionalism. I am in disagreement with some of the things that you are proposing, but I do respect your intellectual ability.

Sometimes in the passion of partisan political debate we say things that should not be said. I am specifically referring to a statement which was made describing you in what I thought to be a very unkind and unfair fashion.

I want to state for the record that under no circumstances, despite our widely divergent philosophical views on housing, despite the fact that we are political adversaries, would I have used those words to describe you or any other person holding public office and seeking to do a job.

I hope that that statement came forth as a matter of rhetoric in a passionate political atmosphere. I would hope that my statement to you this morning becomes in a fashion an apology, although I personally feel it is not necessary for me to apologize to you. However, I think the statement was most unkind, most unfair, and most undeserved.

Thank you, Mr. Chairman.

Chairman GONZALEZ. I must address myself to that, Mr. Mitchell, and say that I may talk a lot, but every word is weighted and very carefully selected mentally. What I said on Friday, if that is what you have reference to, I said it in no passionate or emotional, but in a very deliberate, intended and weighted fashion.

I didn't want to go into that because that happened outside of this context, and it has always been my basic policy that if I am moderating anything or have the power of the gavel, that I seek, above all, to be fair and take no advantage of anybody, much less a witness. I didn't mean to.

I did want to clarify in your mind, whether you accept the wisdom, the propriety or the appropriateness, that is, of the words used, I accept responsibility and do not now repudiate them or apologize for them.

These were statements that were made after more than 1½ years of suspending judgment. If I had wanted to be vindictive, I could have taken advantage of interviews from national press reporters over 1 year ago—over 1 year and 3 or 4 months ago. I thought that would have been unfair.

Mr. MITCHELL. Mr. Chairman, you have made a statement, and I want to respond.

MICROFILMED FROM
BEST AVAILABLE COPY

You and I have been close friends, committed to the same cause in this Congress. We will continue to be close friends, and we will continue to work toward liberal objectives in this Congress. You do not repudiate the statement that you made. I do.

Chairman GONZALEZ. That is understandable. I accept that. The gentleman has made his statement, but I wanted to clarify the sense of responsibility or intent. I didn't want anybody to be under the impression that that had been a sudden outburst, irrational or emotional. It wasn't. If I am wrong, I am wrong, but I meant what I said and I said what I meant.

Mr. Secretary, you certainly will have a chance for rebuttal here, but at this point, I want to recognize Mr. Wylie and any other member of the subcommittee who might wish to make an opening statement.

Mr. WYLIE. I didn't intend to comment on this, Mr. Chairman, but I have the statement in front of me now. Since comment has been made, I do want to say that you say the statement you made was after thoughtful deliberation.

I must say I think it is very unfortunate. I do not think that such rhetoric lends itself to thoughtful deliberation of housing issues. It has been my experience that Secretary Pierce has been most thoughtful. He has been very responsive when I have brought housing matters before him. I know, as far as our community is concerned, we think that he has done an excellent job as the Housing Secretary.

I think the main point I want to make is that we need to have everyone working together, since the solution to the housing problems are not all that readily apparent. I think coming from the chairman of the Housing Subcommittee, Mr. Chairman, that statement was unfortunate.

Since you have already said they were done with thoughtful deliberation, it doesn't appear that any apology is forthcoming, but in any event I felt constrained to make the statement. I do so I won't be associated with them.

Thank you, Mr. Chairman.

Chairman GONZALEZ. Thank you.

Does any other member of the subcommittee wish to speak? Mr. Vento?

Mr. VENTO. Mr. Chairman, I appreciate the Secretary being here to present his views in this, but I must state that I disagree with the tenor of the chairman's statement.

I certainly am a fierce and sometimes partisan voice when there are disagreements, but in politics and in other areas of disagreement, I like to think we can disagree without being disagreeable.

I certainly want to point out that while I may fight with the Secretary and with other members of this committee over various issues, that when the chairman spoke last week he was speaking for himself, not with my concurrence.

Chairman GONZALEZ. Any other member of the subcommittee wish to make a brief statement? Mr. D'Amours? Mr. Hoyer?

Mr. HOYER. I just want to apologize for being late and associate myself with the remarks of Mr. Vento.

Chairman GONZALEZ. I am submitting for the record the correspondence that was exchanged between the subcommittee and the

MICROFILMED FROM
BEST AVAILABLE COPY

Department, along with the Department's responses. These would appear to substantiate that the subcommittee, in fact, did request the detailed analyses purported by the Department to justify the RIF and field reorganization and that the Secretary did not adequately respond to that request either in the submission dated July 23, 1982, or the September 3, 1982, letter from Assistant Secretary Tardy. In addition to the written correspondence, frequent contacts were made by the subcommittee staff with the HUD Congressional Liaison Office to express the inadequacies of the responses and to reiterate the requests for the proper information.

[Submitted for inclusion at this point in the record is the following material: A letter to Secretary Pierce, dated June 25, 1982; a memo from Mark Goldhaber of HUD's Office of Legislation and Congressional Relations, dated July 29, 1982, with attached report, dated July 23, 1982, "HUD Staffing Reduction Activity"; a letter to Secretary Pierce, dated August 26, 1982, from Chairman Fernand J. St Germain of the House Banking, Finance and Urban Affairs Committee, Chairman Gonzalez, and Congressman Steny H. Hoyer; a letter to Chairman Gonzalez, dated September 3, 1982, from HUD Assistant Secretary for Administration Judith L. Tardy; and Chairman Gonzalez' response to the September 3, Tardy letter, dated September 13, 1982. Also to be included at this point: The text of H.J. Res. 480 and H. Rept. 97-590. The material follows:]

MICROFILMED FROM
BEST AVAILABLE COPY

HENRY B. GONZALEZ, TEX.
CHAIRMAN

FERNAND J. ST GERMAIN, R.I.
WALTER E. FAUNTROY, D.C.
JERRY M. PATTERSON, CALIF.
JOHN J. LAFALCE, N.Y.
JAMES J. BLANCHARD, MICH.
DAVID W. EVANS, IND.
STANLEY N. LUNDINE, N.Y.
MARY ROSE OAKAR, OHIO
BRUCE F. VENTO, MINN.
ROBERT GARCIA, N.Y.
MIKE LOWRY, WASH.
PARREN J. MITCHELL, MD.
CAROLL HUBBARD, JR., KY.
NORMAN E. D'AMOURS, N.H.
CHARLES E. SCHUMER, N.Y.
BARNEY FRANK, MASS.
WILLIAM J. COYNE, PA.
STENY H. HOYER, MD.

U.S. HOUSE OF REPRESENTATIVES
SUBCOMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT
OF THE
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS
NINETY-SEVENTH CONGRESS
2129 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, D.C. 20515

J. WILLIAM STANTON, OHIO
CHALMERS P. WYLIE, OHIO
STEWART B. MCKINNEY, CONN.
THOMAS B. EVANS, JR., DEL.
JIM LEACH, IOWA
ED BETHUNE, ARK.
MARGE ROUKEMA, N.J.
JAMES K. COYNE, PA.
GEORGE C. WORTLEY, N.Y.
GREGORY W. CARMAN, N.Y.
BILL MCCOLLUM, FLA.
BILL LOWERY, CALIF.
DOUGLAS K. BEREUTER, NEBR.
DAVID DREIER, CALIF.
GERALD P. MCMURRAY,
STAFF DIRECTOR

225-7054

June 25, 1982

Honorable Samuel R. Pierce, Jr.
Secretary
U. S. Department of Housing and
Urban Development
Washington, D. C. 20410

Dear Mr. Secretary:

It has come to the attention of the Subcommittee that despite your earlier promises and the fact that your Department is under the staffing ceilings set for each department of the Executive Branch, you have decided to execute a reduction-in-force (RIF). I find this action not only deplorable and a breech of good faith, but also unwarranted since you have refused to transfer or reassign personnel where staffing is over ceiling to units of the Department where staffing is under ceiling.

I believe that you owe a full and detailed explanation of your actions in this regard to the Subcommittee and, therefore, request that you provide same in a hearing before the Subcommittee on July 13, 1982, at 10:00 a.m., in Room 2128 Rayburn House Office Building, before you go forward with this proposed reduction-in-force.

Sincerely,

Henry B Gonzalez
Chairman

MICROFILMED FROM
BEST AVAILABLE COPY

U.S. Department of Housing
and Urban Development
Office of Legislation
and Congressional Relations

Washington, D.C. 20410

From: Mark Goldstein

To: Frank DeStefano

Attached is the additional information you requested as a result of the meeting yesterday with OIFA. If you have questions, please call.

July 23, 1982

HUD STAFFING REDUCTION ACTIVITY

The following Headquarters offices are substantially over their permanent full-time (PFT) employment ceiling:

Office	10/1/82 PFT Ceiling	10/1/81 PFT On Board	5/26/82 PFT On Board	No. PFT Over Ceiling
CPD	339	395	379	40
FHEO	123	149	139	16
Housing	835	920	856	21

On 10/1/81, all Headquarters offices, except the Office of Inspector General, were over their 10/1/82 ceiling. All knew then that they had to reduce their staffs to achieve their 10/1/82 ceiling. Only CPD, FHEO, and Housing are substantially over their employment ceilings.

To assist HUD offices in reducing ceiling without a RIF, we have done the following:

1. Hiring Freeze: HUD has had a strict hiring freeze in effect since Secretary Pierce took office. Any exceptions to the freeze must be approved by the Assistant Secretary for Administration. Since October 1, 1981, only 80 outside hires have been approved for Headquarters. Of these, 30 were in the Office of General Counsel and the Office of Inspector General (whose employees would generally not impact other HUD employees in a RIF).

2. Reassignment: As a result of reorganizations, program changes, and in a conscious effort to minimize the impact of a RIF, HUD has reassigned 900 employees within Headquarters during FY 1982.

3. Headquarters Outplacement Program: RIF is an expensive process which is also disruptive to an organization. Thus, HUD has placed much emphasis on voluntary outplacement. The more employees that leave HUD on their own, the less people need to be RIFed. Outplacement activities include the following:

- 1084 employees have received retirement counselling.
- 2952 employees have been briefed on RIF procedures.
- 946 employees have attended special workshops put on by HUD concerning job search, SF-171 and resume preparation, job interview techniques, and money management.
- 706 employees have attended special workshops on stress management, to help them cope with the uncertainty caused by staffing changes.

MICROFILMED FROM
BEST AVAILABLE COPY

- HUD has sent 106 letters to non-Federal organizations to obtain job vacancy information for employees.

- HUD has referred 140 employee applications to the Department of Labor's job bank.

- HUD has placed 62 employees who occupied jobs identified for abolishment into permanent jobs, both within HUD and outside HUD. We know that many other HUD employees have also obtained jobs as a result of the outplacement efforts described above, but because employees do not always give us feedback, we have no specific data.

Since last fall there have been discussions with the Department's Senior Staff about being over ceiling. OMB had to give the Department additional staff years to cover this or we would have had to RIF below authorized levels. In addition, HUD had only a 1.3 percent reduction against its S&E appropriation while other agencies had at least 4 percent reductions and some as large as 12 percent.

Each Assistant Secretary submitted its specific plans to achieve its ceiling last fall. Those offices that do not appear to be able to meet those ceilings were asked in June to update their plans to achieve their year-end ceilings. This issue has been discussed at the Secretary's Senior Staff meetings on numerous occasions.

MICROFILMED FROM
BEST AVAILABLE COPY

HENRY B. GONZALEZ, TEX.
CHAIRMAN

FERNAND J. ST GERMAIN, R.I.
WALTER E. FAUNTROY, D.C.
JERRY M. PATTERSON, CALIF.
JOHN J. LAFALCE, N.Y.
JAMES J. BLANCHARD, MICH.
DAVID W. EVANS, IND.
STANLEY N. LUNDINE, N.Y.
MARY ROSE OAKAR, OHIO
BRUCE F. VENTO, MINN.
ROBERT GARCIA, N.Y.
MIKE LOWRY, WASH.
PARREN J. MITCHELL, MD.
CARROLL HUBBARD, JR., KY.
NORMAN E. D'AMOURS, N.H.
CHARLES E. SCHUMER, N.Y.
BARNEY FRANK, MASS.
WILLIAM J. COYNE, PA.
STENY H. HOYER, MD.

U.S. HOUSE OF REPRESENTATIVES
SUBCOMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT
OF THE
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS
NINETY-SEVENTH CONGRESS
2129 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, D.C. 20515

J. WILLIAM STANTON, OHIO
CHALMERS P. WYLIE, OHIO
STEWART B. MCKINNEY, CONN.
THOMAS B. EVANS, JR., DEL.
JIM LEACH, IOWA
ED BETHUNE, ARK.
MARGE ROUKEMA, N.J.
JAMES K. COYNE, PA.
GEORGE C. WORTLEY, N.Y.
GREGORY W. CARMAN, N.Y.
BILL MCCOLLUM, FLA.
BILL LOWERY, CALIF.
DOUGLAS K. BEREUTER, NEBR.
DAVID DREIER, CALIF.

GERALD R. MCMURRAY,
STAFF DIRECTOR

225-7054

August 26, 1982

Honorable Samuel R. Pierce, Jr.
Secretary
U. S. Department of Housing and
Urban Development
Washington, D. C. 20410

Dear Mr. Secretary:

This letter is to request that you appear before the Subcommittee in a hearing scheduled for September 13, 1982, in Room 2128 of the Rayburn House Office Building at 10:00 a.m. to explain the Department's actions on two critical issues. The first concerns your outright violation of section 7(o) of the Housing and Urban Development Act with respect to disregarding H.J.Res. 480. The second issue concerns your proposed reduction in force and field reorganization.

I am requesting again that you explain your July 16, 1982, decision to disregard H.J.Res. 480, with regard to the increase from 25 to 30 percent in the amount of low income housing tenant's contribution to rent. I refer you to my letter of July 21, 1982, in which I originally requested your appearance before the Subcommittee to explain your actions on this matter. I was advised that your schedule prevented you from appearing on July 27 or 28, 1982, as requested. Therefore, I request that you explain your actions with regard to your direct violation of Section 7(o) of the Department of Housing and Urban Development Act in disregarding H.J.Res. 480 to the Subcommittee in public when you appear on the above-mentioned date.

With regard to the second issue, once again we must express our serious disappointment with your complete disregard of the Committee's concerns about the staff reductions and field office reorganization that you have proposed and have initiated. In not providing the Subcommittee with the detailed personnel and management studies and analyses that Ms. Judith Tardy, Assistant Secretary for Administration, and your congressional liaison staff claimed were made to support the proposed actions before you implemented them, as promised by Ms. Tardy, during the July 9, 1982, meeting with the Subcommittee staff, you have broken the word of the Department.

MICROFILMED FROM
BEST AVAILABLE COPY

You will recall that the subject meeting was a result of the Department's request of the Subcommittee Chairman to hold off from holding an official hearing in order to permit, in a less formal way, the Department to provide us with the full justification for the proposed reduction in force and reorganization. We put off the hearing to honor the Department's request but the Department has yet to fulfill its promise to provide the detailed justification and supporting analyses to the Subcommittee.

In view of the fact that the Department's staffing level is under the official ceiling and while some units within the Department are above their designated ceiling but others are below it and in need of additional staff, it is entirely reasonable for the Committee to be concerned about this proposed reduction in force. Additionally, our concern was indeed warranted with respect to the Department's proposal for reorganizing the field structure. The Department's justification to co-locate some regional and area offices is highly questionable since the respective missions, functions and activities of regional and field offices are fundamentally different. Therefore, without additional information, the Committee--as well as others, including employees of the Department--find it difficult to understand how such a proposal can be made.

The proposed staff reductions bring into question whether the Department's programs will be carried out efficiently and effectively and that the funds provided by the Congress are expeditiously made available for the intended beneficiaries. The proposed reorganization of the existing field office structure further brings this outcome into question because it is not clear as to how it will affect the Department's productivity. I will expect that you will explain your actions to the Subcommittee and provide it with the detailed organization, management, personnel and other similar measures and studies that were taken to support the action you have initiated.

Sincerely,

Henry Gonzalez

Henry B. Gonzalez
Chairman
Subcommittee on Housing and
Community Development

Fred J. St Germain

Fernand J. St Germain
Chairman
Committee on Banking, Finance
and Urban Affairs

Steny Hoyer

Steny Hoyer
Member of Congress

MICROFILMED FROM
BEST AVAILABLE COPY

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410

OFFICE OF THE ASSISTANT SECRETARY
FOR ADMINISTRATION

IN REPLY REFER TO:

September 3, 1982

Honorable Henry B. Gonzalez
Chairman, Subcommittee on Housing
and Community Development
Committee on Banking, Finance
and Urban Affairs
House of Representatives
Washington, D.C. 20515

Dear Mr. Gonzalez:

This is in further response to my meeting of July 9 with Housing Subcommittee staff. One of the questions raised at the meeting concerned the standards and procedures that the Department uses to determine staffing levels. I trust that this letter will clarify any misunderstandings which may have arisen at the meeting about the methods we at HUD use in this process.

We formulate the staffing portion of our budget submission to OMB in terms of staff years. OMB then gives us an overall employment ceiling, which the Secretary allocates among the various organizations in Headquarters and the field. Field allocations are based largely on applying work measurement standards to the actual workload anticipated in the various programs. This is because work performed in the field lends itself to this kind of process. Staff allocations in Headquarters are based on the best collective judgment of the Secretary and the Assistant Secretaries as to the staff necessary to accomplish Headquarters goals and objectives.

The reductions currently planned for HUD Headquarters reflect adherence to the staff levels included in the material justifying the budget estimates which was provided to Congress in March 1982. We initially anticipated that necessary staff reductions could be accomplished through attrition, rather than through reduction-in-force. However, some Headquarters organizations failed to achieve their reduced staffing levels through attrition. These lower staffing levels will in no way adversely affect the Department's ability to deliver its programs, but rather will ensure that the resources we use, both in terms of staff and funds, will not exceed the amounts required to deliver our programs.

MICROFILMED FROM
BEST AVAILABLE COPY

The FY 1982 Headquarters staff for Housing programs indicated in the budget submitted to Congress in March 1982 reflected an increase of 67 full-time permanent staff from the level proposed in March 1981. The reduction represented the net effect of various changes. The principal change was the addition of 116 positions for the conduct of functions previously performed by the Office of Neighborhoods, Voluntary Associations and Consumer Protection, which was in the process of being abolished. That increase was partially offset by the transfer of one position to the Office of the Secretary and by a reduction of 48 positions due to workload reductions. The latter reduction reflected the impact of deregulation and the significant decrease in development activities, including attendant reductions in management support. The Headquarters Office of Housing accomplished much of this reduction through attrition. It is presently abolishing only 11 positions.

In the case of Community Planning and Development, a reduction of 19 positions was projected in the budget submitted in March 1981. The reduction consisted of the transfer of 10 positions associated with evaluation functions to the Office of Policy Development and Research and a reduction of 9 positions related to organizational improvements and reduced workload. However, CPD in Headquarters was over its ceiling at the end of 1981, and presently has to reduce by 36 positions.

Finally, the Office of Fair Housing and Equal Opportunity was reduced by 5 positions from the budget submitted in March 1981. The reductions reflect anticipated procedural and processing improvements. FHEO was also over its ceiling at the end of 1981 and has to reduce by 19 positions.

As noted above, the inability of some of these Headquarters organizations to meet their approved staff ceilings results, in part, from the fact that their on-board staff at the end of fiscal year 1981 was in excess of their approved ceilings. Had they been at the approved levels at that time, it is quite likely that the required reductions could have been realized by attrition and no involuntary reductions would be required.

I trust this information will satisfactorily answer any questions and resolve any misunderstandings which may have resulted from my July 9 meeting with your staff.

Sincerely,

Judith L. Tardy

Judith L. Tardy
Assistant Secretary, A

MICROFILMED FROM
BEST AVAILABLE COPY

HENRY B. GONZALEZ, TEX.
CHAIRMAN

FERNAND J. ST GERMAIN, R.I.
WALTER E. FAUNTROY, D.C.
JERRY M. PATTERSON, CALIF.
JOHN J. LAFALCE, N.Y.
JAMES J. BLANCHARD, MICH.
DAVID W. EVANS, IND.
STANLEY N. LUNDINE, N.Y.
MARY ROSE OAKAR, OHIO
BRUCE F. VENTO, MINN.
ROBERT GARCIA, N.Y.
MIKE LOWRY, WASH.
PARREN J. MITCHELL, MD
CARROLL HUBBARD, JR., KY.
NORMAN E. D'AMOURS, N.H.
CHARLES E. SCHUMER, N.Y.
BARNEY FRANK, MASS.
WILLIAM J. COYNE, PA.
STENY H. HOYER, MD.

J. WILLIAM STANTON, OHIO
CHALMERS P. WYLIE, OHIO
STEWART B. MCKINNEY, CONN.
THOMAS B. EVANS, JR., DEL.
JIM LEACH, IOWA
ED BETHUNE, ARK.
MARGE ROUKEMA, N.J.
JAMES K. COYNE, PA.
GEORGE C. WORTLEY, N.Y.
GREGORY W. CARMAN, N.Y.
BILL MCCOLLUM, FLA.
BILL LOWERY, CALIF.
DOUGLAS K. BEREUTER, NEBR.
DAVID DREIER, CALIF.
GERALD R. MCMURRAY,
STAFF DIRECTOR

225-7784

U.S. HOUSE OF REPRESENTATIVES

SUBCOMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT
OF THE
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS
NINETY-SEVENTH CONGRESS
2129 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, D.C. 20515

September 13, 1982

Ms. Judith L. Tardy
Assistant Secretary for Administration
U. S. Department of Housing and
Urban Development, Room 10110
451 Seventh Street, S.W.
Washington, D. C. 20410

Dear Ms. Tardy:

I received your letter of September 3, 1982, in which you provided justifications for HUD's proposed RIF actions. This information, however, is entirely unacceptable because it does not provide the supporting analyses that you stated were performed, available, and which you promised to provide to the Subcommittee during a July 9, 1982, meeting with the Subcommittee staff.

The Subcommittee request was clear: the Department was asked to provide the organization, management and personnel studies that are carried out in consonance with commonly accepted personnel and organization practices--particularly work flow and work load studies. You stated that such studies had been undertaken both with respect to the headquarters, field office staffing proposals, and the co-location aspects of the Region and Area Office restructuring proposal and you said that you would make them available to the Subcommittee. The Subcommittee staff has prodded the Department through the Congressional Relations Office frequently since then and finally received your September 3, 1982, response which I consider to be a non-response. It tells us no more than what we already knew and what you had repeated on July 9, 1982.

This non-response, along with the other actions, tends to confirm our concern that the proposed reductions in staff and reorganization is no more than an unjustified, capricious and arbitrary action on the part of Secretary Pierce without regard for the efficient and effective operations of the housing and community development programs.

I continue to look forward to receiving the information which you promised to the Subcommittee, preferably before Secretary Pierce's appearance in our September 21 hearing.

Sincerely,

Henry B. Gonzalez
Chairman

MICROFILMED FROM
BEST AVAILABLE COPY

I

Union Calendar No. 363

97TH CONGRESS
2D SESSION

H. J. RES. 480

[Report No. 97-590]

To disapprove certain rules prescribed by the Secretary of Housing and Urban Development.

IN THE HOUSE OF REPRESENTATIVES

MAY 11, 1982

Mr. GONZALEZ introduced the following joint resolution; which was referred to the Committee on Banking, Finance and Urban Affairs

JUNE 2, 1982

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

---

JOINT RESOLUTION

To disapprove certain rules prescribed by the Secretary of Housing and Urban Development.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the rules of the Department of Housing and Urban Development entitled "Gross Rent-Public Housing Program" and "Gross Family Contribution; Section 8 Housing Assist-

ance Payments Program" (contained in the Federal Register, volume 47, number 86, May 4, 1982, 24 CFR parts 805, 860, 861, and 865 and 24 CFR 889) are hereby disapproved and invalidated.

97TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } { No. 97-590

RESOLUTION OF DISAPPROVAL OF TENANT CONTRIBUTIONS

JUNE 2, 1982.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

---

MR. ST GERMAIN, from the Committee on Banking, Finance and Urban Affairs, submitted the following

REPORT

together with

MINORITY VIEWS

[To accompany H.J. Res. 480]

The Committee on Banking, Finance and Urban Affairs, to whom was referred the joint resolution (H.J. Res. 480) to disapprove certain rules prescribed by the Secretary of Housing and Urban Development, having considered the same, report favorably thereon without amendment and recommend that the joint resolution do pass.

RESOLUTION OF DISAPPROVAL OF HOUSE JOINT RESOLUTION 480

The Banking, Finance and Urban Affairs Committee, by a vote of 24–1, reported out of Committee this resolution which disapproves two regulations published in the Federal Register on May 4, 1982, affecting tenant rent payments in the Section 8 and Public Housing Programs: 24 CFR, Part 889—Interim Rule—Gross Family Contribution Under Section 8 Housing Assistance Payments Program, and 24 CFR, Parts 805, 861 and 865—Interim Rule—Gross Rent Under Public Housing Program. The Committee has acted to disapprove these regulations because the Committee believes that by treating tenants differently depending on their initial date of occupancy, and by not providing for public comment prior to their effective date, these regulations violate the intent of Congress in adopting the new rent procedures. Pursuant to Section 7(o)(3) of the Department of Housing and Urban Development Act, the impact of reporting out a resolution of disapproval is to defer the effective date of the resolution until August 24, 1982.

The regulations disapproved by the Committee would implement provisions contained in Section 322 of the Omnibus Reconciliation Act

of 1981 which increased the tenant monthly contribution to rent under the HUD assisted housing programs, including Section 8 and Public Housing, from 25 percent to 30 percent of income. Section 322 also changed the definitions of "income" and "adjusted income" used in determining the tenant contribution to rent and established new income eligibility limits based upon income; these provisions were not addressed by the regulations.

In adopting the increase in tenant contribution to rent from 25 to 30 percent of monthly income, the Congress specifically authorized the Secretary to provide for delayed applicability or staged implementation of these rent computation requirements for tenants occupying assisted housing on the effective date of the 1981 Act if the Secretary determines that immediate application of the procedures would be impracticable, would violate the terms of existing leases, or would result in extraordinary hardship for any class of tenants. The Congress similarly authorized the Secretary to provide for delayed applicability or staged implementation of these requirements with regard to tenants occupying assisted housing after the effective date of the 1981 Act if the Secretary determines that immediate application of the procedures would be impracticable, or that uniform procedures for assessing rents would significantly decrease administrative costs and burdens.

The regulations published by the Department on May 4, 1982, provide that families admitted into Section 8 or Public Housing on or after the effective date of the regulations would immediately pay the increased contribution of 30 percent of income. For families admitted into the programs before the effective date of the regulations the rent increase would be phased-in over a 5-year period. Thus, the percentage of income paid to rent by a family is to be determined by the date of the family's initial occupancy in the program.

These regulations would therefore result in tenants living side-by-side in assisted housing paying different rents depending on their date of initial occupancy. The Committee believes that this result would be inconsistent with the Congressional intent that changes to the rent computation requirements should "eliminate [ ] virtually all disparities between the Section 8 and Public Housing Programs which cause inequity for tenants and endless complexity for public housing agencies and multifamily project owners". Senate Report No. 97–139, to accompany S. 1377, Omnibus Reconciliation Act of 1981.

While the regulations published by the Department will provide for consistent treatment in determining rents between the two programs, they will nonetheless result in inequitable treatment of tenants within the same program, and considerably increase the complexity of administering the programs to PHAs and Section 8 owners, in direct conflict with the Congressional intent in adopting the rent change. Moreover, the Committee is concerned that while the statute explicitly authorizes the Secretary to consider whether uniform procedures for assessing rents would significantly decrease administrative costs and burdens, in making his determination as to the immediate or delayed implementation of the rent increase for new tenants, the regulations do not indicate that such factors were ever considered by the Secretary.

The Committee intends that these factors should be taken into consideration before implementation of the new rent procedures and that the Secretary should implement the changes in the definitions of "income" and "adjusted income", as provided for in Section 322, when implementing the changes in the percent of tenant contribution to rent. Both the percentage changes and the definition of income changes have a direct affect on the actual amount of the contribution to rent that will be required of tenants. The Committee is concerned that separate implementation of these changes could result in inequities to tenants, and would exacerbate the administration of the programs by Section 8 project owners and PHAs.

Finally, the Committee is concerned that the Department has chosen to publish these regulations as interim rather than as proposed regulations. As interim regulations, they would take effect immediately upon expiration of the 30-day period of continuous session of Congress after their publication, and tenants, Section 8 project owners and PHAs would not be able to comment on their impact before implementation. The Committee believes that prior public comment is necessary in order to ensure that the Congressional intent of minimizing inequities for tenants and reducing complexities to PHAs and Section 8 owners is met, and that these regulations should be published as proposed rules.

COMMITTEE VOTE (RULE XI, CLAUSE 2(l)(2)(B))

A total of 24 votes cast for reporting favorably H.J. Res. 480 and 1 vote was cast against reporting the resolution.

11-727 O—82——4

MINORITY VIEWS ON HOUSE JOINT RESOLUTION 480

"I am bound to furnish my antagonists with arguments but not with comprehension."—Benjamin Disraeli.

As is evident from the vote to report out this resolution of disapproval, the Minority Members of the Committee refused to participate in this abuse of the legislative review procedure. The arguments were made several times by the Minority that the Committee was violating its trust in disapproving a regulation of the Department of Housing and Urban Development which is clearly consistent with the law. Whether one agrees with the law or not is irrelevant. As an agent of the United States House of Representatives, this Committee is bound to uphold actions taken by a majority vote of the full House.

As if to underscore the disregard for established procedures and precedents for action, the Committee proceeded to vote on H.J. Res. 480 without a quorum present, moved on to vote on H.J. Res. 488 without a quorum present, then suspended both votes to await the arrival of another member. When a quorum was attained the vote of only that member needed for a quorum was taken.

The authority to disapprove HUD regulations, thereby delaying their implementation for 90 days, was granted to the Banking Committees of both the House and Senate as part of the Housing and Committee Development Amendments of 1978. The Conference Report on that Act states explicitly the basis for using this authority as follows:

> The conferees also expect that the 90 days deferral provision will only be followed where either committee believes that the proposed regulations *violate the intent of Congress.* (Emphasis added.)

Not even the sponsors of H.J. Res. 480 argued that the proposed regulations are inconsistent with the provisions of last year's Omnibus Budget Reconciliation Act. Simply reading Section 322 of that Act explains why the sponsors had to forego that argument. Basically, the sponsors of the Resolution are reduced to arguing that since they want to change those provisions of last year's Act relating to tenant rents, they should be permitted to utilize this extraordinary power to force the delay of the regulations. We would submit that such a justification is insufficient to warrant the triggering of the authority vested in the Committee and that this action transcends our authority and the legislative review procedure.

We should be aware that the abuse of a granted power is one of the surest ways of having that grant of power revoked. The abuse of authority represented by H.J. Res. 480 is likely to result in litigation, since the Committee has presented HUD with an ideal case upon which to challenge the legislative review. We would expect that the courts will take note of this clear violation of the intent of Congress in determining the validity of the provision itself. It is ironic that a provision designed to assure that the intent of Congress was adhered to would be used to thwart the clear intent of that Congress.

"The law itself is on trial every case as well as the cause before it."—Justice Harlan F. Stone.

J. WILLIAM STANTON.
STEWART B. MCKINNEY.
RON PAUL.
NORMAN D. SHUMWAY.
GREGORY W. CARMAN.
JAMES K. COYNE.
DAVID DREIER.
CHALMERS P. WYLIE.
GEORGE HANSEN.
TOM EVANS.
GEORGE C. WORTLEY.
DOUGLAS BEREUTER.

Chairman GONZALEZ. Mr. Secretary, certainly you are recognized at this point. You may proceed as you see best. You may wish to make some statements related or not to this, or any other incident, or you may wish to summarize your prepared text and submit it for the record. You may proceed as you see best.

STATEMENT OF HON. SAMUEL R. PIERCE, JR., SECRETARY OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, ACCOMPANIED BY JUDITH L. TARDY, ASSISTANT SECRETARY FOR ADMINISTRATION

Secretary PIERCE. Mr. Chairman, I usually enjoy appearing before you and your subcommittee to discuss matters of mutual concern in the areas of housing and urban development. However, I hesitated for a long time before deciding to appear before your subcommittee today because it is most difficult for me to testify before a body whose chairman is so lacking in quality and dignity and is so unskilled in the use of the English language that he had to resort to vile, abusive, and racist language in order to attack me.

The fact that we disagree on many issues and certainly on political philosophy cannot justify your vicious personal racist attack on me. Nevertheless, I am here today and would like to present the following statement for the record on issues which you and other members of the subcommittee have an interest in.

Mr. Chairman and members of the subcommittee, I appear this morning in response to your request for information concerning the Department's actions concerning: First, implementation of rules regarding tenant rent contributions in low-income housing;

second, a proposed reduction in force at HUD headquarters; and third, a proposed reorganization of our field operations.

Mr. Chairman, you asked first that I explain the Department's action with regard to the Banking Committee's adoption of a resolution of disapproval of two interim rules relating to tenant rent increases in public housing and section 8.

The resolution of disapproval, H.J. Res. 480, was reported out on June 2 and was intended, under the provisions of section 7(o)(3) of the Department of Housing and Urban Development Act, to have the effect of delaying the effective date of the rules for 90 calendar days. Notwithstanding the committee's action, the Department declared the rules effective on August 1; that is, 30 days before the expiration of the 90-day period.

The reasons for the Department's actions with regard to the rent increase rules were fully stated in the notices published in the Federal Register on July 16. It is no secret that the executive branch, on the advice of the Attorney General, historically has considered that legislative vetoes are unconstitutional.

It is also no secret that the Department of Justice, both at the time of enactment of section 7(o) of the Department of HUD Act in 1978 and at the present time, has considered that the triggering mechanism for the additional 90-day waiting period contained in section 7(o)(3) is, for constitutional purposes, no different from an outright legislative veto.

The constitutional defect is that the statute purports to allow Congress, by action solely of its committees, to impose legally binding requirements on the executive branch. The statute violates the doctrine of separation of powers and, more specifically, violates the presentment clause of article I of the Constitution, which makes it clear that Congress cannot exercise its legislative power by passing measures intended to have a legal effect beyond that needed to rule the legislative branch without first presenting them to the President.

I do not propose to pursue at length the constitutional argument. As I indicated, it is well known, as is the fact that the legislative branch disagrees with it. That disagreement surely will continue until there is a definitive ruling from the Supreme Court.

I would be happy, if you wish, to furnish for the record of this hearing a copy of the advice of the Department of Justice given to President Carter at the time of enactment of section 7(o) in 1978, as well as a copy of HUD's brief recently filed by the Justice Department in the litigation pending in the Federal District Court in New York relating to the rent increase rules. I understand that copies already have been furnished to the subcommittee's counsel.

That does not end the matter. As you are aware, at the time that President Carter signed the HUD authorization legislation which included section 7(o), he advised Secretary Harris that, notwithstanding the constitutional infirmity of the delay provision, it would be appropriate to adhere to it as a matter of comity between the executive and legislative branches.

Indeed, on the same day that the committee adopted its resolution regarding the rent increase rules, it also adopted a separate resolution of disapproval of an interim rule which we had published adopting cost containment measures relating to the section

202 program of housing for the elderly and handicapped. In that case, the Department abided by the committee's action.

In fact, we have gone further than section 7(o) would require. We have not merely deferred the effective date of the rule, but have suspended it altogether. We have said that we will treat the published interim rule as a proposed rule and that we will take the views of the committee, as well as the public comments, into consideration before publishing a final rule.

In the case of the rent increase rules, however, we were confronted with a unique and unprecedented situation in which consideration of comity with this committee collided with my obligation to execute the law as enacted by the whole Congress.

The legislative history surrounding the enactment of section 7(o) emphasizes that the disapproval procedure was intended to be utilized only when a committee believes that a departmental regulation violates the intent of Congress as expressed in specific enacted legislation. In this instance, however, it was the undenied fact that the committee's objection was not to the Department's manner of implementation of a statute, but to the statute itself.

The rent increase rules implemented an increase in tenant contribution to rent from 25 percent to 30 percent of adjusted income as directed by section 322 of the Housing and Community Development Amendments of 1981.

When the interim rules were submitted to the Senate and House Banking Committees for their review prior to publication, as required by our legislative review statute, we received no comment regarding the manner of our implementation from any committee source.

The fact that it was the majority's objection to the statute itself and not to the Department's manner of implementing it that led to the resolution of disapproval is evident from the remarks of minority members of the committee in the markup session and in their minority report and in the subsequent floor statement by the dissenting member of the majority. It is also evident, Mr. Chairman, from your own remarks at the committee markup session.

Mr. Chairman, I have a duty to execute the law as it is adopted by the whole Congress. In this instance, a single committee of the Congress attempted to bar me from executing the law by means which the Attorney General has advised violate the Constitution.

In that unique and, as I say, wholly unprecedented and uncontemplated situation, I do not believe that I have the freedom to withhold implementation of the statute in the name of comity with the committee.

Mr. Chairman, those are the full reasons for our actions regarding the rent increase rules, just as they were published previously, and I don't think that there is anything more that can be constructively said about it.

With regard to the Department's proposed reorganization, the subcommittee is aware that significant changes in HUD programs have occurred in fiscal year 1982 and more are planned in fiscal year 1983.

Generally speaking, the changes include less activity in the multifamily insurance programs, elimination of some programs, transfer of certain programs to the States, and reduced funding levels.

For example, gross reservations for public housing decreased from 46,151 in fiscal year 1980 to 36,370 in fiscal year 1981 to 3,100 in fiscal year 1982. Net reservations for all section 8 programs decreased from 269,703 in fiscal year 1979 to 153,985 in fiscal year 1981.

Net section 8 reservations for new construction and substantial rehabilitation decreased from 145,138 in fiscal year 1979 to 51,635 in fiscal year 1981 and an estimated 8,500 in fiscal year 1982. It is anticipated that in fiscal year 1983 all new construction under section 8 will be eliminated, except for elderly and handicapped housing.

In the community development block grant program, changes in the application process will require less intensive application review by HUD. For urban development action grants, the budget authority will decrease from $675 million in fiscal year 1981 to $440 million in fiscal year 1983.

Congress terminated the planning assistance program, section 701, beginning in fiscal year 1982 and no new activity will be undertaken in this program.

The section 312 rehabilitation loan program, with total loan reservations of $203 million in fiscal year 1980 and $84 million in fiscal year 1981, is proposed for termination in fiscal year 1983. It is clear that these changes have reduced the need for field staff in the Department.

Accordingly, the Department is proposing to restructure its field organization to reflect the reduced workload and program changes. The key features of the reorganization plan will be to strengthen the role of Regional Administrators and simplify our organizational structure.

Presently, the Regional Administrator is generally held accountable for managing regional operations, but he frequently does not have the managerial controls and flexibility necessary to be completely in charge. On many key issues, the Regional Administrator is bypassed and headquarters deals directly with field offices.

Under the reorganization proposal, total line and administrative authority over all activities in the region will be given the Regional Administrator who, for the first time, will become truly a line manager in the field, fully able to manage and be held accountable. Thus, program attention and authority will be focused on the Regional Administrator rather than on program officials at the field office level.

This proposal also has the goal of simplifying the current organizational structure and reducing overhead and duplication. This would be accomplished in large measure by regionalization of certain functions such as labor relations, fair housing and equal opportunity and economic and market analysis in several regions, consolidation of the regional office with the collocated area office in 9 regional cities, and elimination of housing directors in 39 area offices.

Regionalization of certain functions would occur primarily in the Boston, Kansas City, and Seattle regions, which have small workloads and/or small geographical areas of responsibility. Regionalization of these functions is the result of reduced workload which no longer justifies a decentralized staff.

The proposal would establish a uniform structure for each type of field office. However, there are some exceptions: CPD, FHEO, and economic and market analysis functions will be regionalized in Boston, with toll-free access telephone lines provided for clients in Hartford and Manchester.

FHEO operations will be regionalized in Seattle. Labor relations functions will be regionalized in Boston, Atlanta, Kansas City, and Seattle. The effectiveness of regionalizing labor relations in Atlanta will be assessed after 1 year to determine if it can be duplicated in other large regions.

A second major structural change will be in the consolidation of regional and area offices in nine regional cities: Boston, New York, Philadelphia, Atlanta, Chicago, Fort Worth, Kansas City, San Francisco, and Seattle. HUD's offices in Denver are currently consolidated.

All existing field offices will remain, with the exception of the Dallas area office, which will be consolidated with the Fort Worth regional and service offices into one office in Fort Worth. Service office supervisors will report directly to the Regional Administrator.

A second Deputy Regional Administrator position will be established in seven regions—Boston, New York, Atlanta, Chicago, Fort Worth, San Francisco, and Seattle—and dual-track housing operations, where single-family and multifamily operations are currently organized separately, will be eliminated and converted to single-track operations.

Separate offices of Indian programs will be maintained. However, in the San Francisco region, the bulk of Indian program operations will be transferred to Phoenix, where most of our Indian program activity is located. An adequate staff will remain in San Francisco to provide service to northern California tribes.

The plan also eliminates the field office designations of "area office," "service office," and "valuation and endorsement station." These designations have proven to be confusing to HUD clientile. All offices hereafter will bear the simple designation "Office of the Department of Housing and Urban Development."

Consolidation of the nine regional and area offices will result in lower overhead costs, including savings of personnel and reduced space requirements, better use of available staff, elimination of redundant positions and improved service to HUD clients.

There has been concern in some quarters that the consolidated offices would receive a disproportionate share of HUD resources. I can personally assure you that this will not occur. The Regional Administrator will be responsible for the performance of the total region, not just one office.

If the proposed organizational and staffing changes are fully implemented, the field staff would be reduced to 9,404 positions. This represents a potential staff savings of 672 positions when compared to the previous projection of 10,076 for September 30, 1982 and 454 positions when compared to 9,858 for September 30, 1983.

It should be noted that while attrition over time will bring the Department down to its new ceiling, it will not eliminate the need for a reduction in force. This is because attrition is not evenly distributed in the field. In addition, the combination of the reduction-

in-force process and continuing attrition, especially at the clerical level, will result in staffing imbalances that need to be addressed.

Also, the reorganization anticipates the elimination of approximately 130 managerial positions which are redundant as a result of regional and area office consolidation and can only be eliminated through a reduction in force.

The estimated cost to reorganize will be $5.1 million over a 2-year period. These costs result from personnel relocation, severance costs, space alterations, movement of furniture and equipment, and increased travel requirements. These costs are offset by an estimated $30 million in savings over a 2-year period, which can be attributed to reduced personnel costs and lower space costs.

The estimated net savings for the first 2 years after implementation are between $23.6 and $24.9 million. The exact amount of net savings cannot be estimated at this time because it is impossible to determine the exact number of positions affected by the RIF. However, it is anticipated that the maximum number will not exceed 260 and, in fact, may be less.

Turning to improvements I have planned for the operations of the Department, I assure you I share the subcommittee's concerns about the efficient delivery of the Department's programs. At each step of the process, when meeting and discussing personnel ceilings with my Assistant Secretaries, one of the fundamental goals was to assure that whatever changes were made would not reduce HUD's program efficiency. I am confident the actions we are taking will achieve this goal.

I also share your concern about the effect that a reduction in force has on the people who work in the Department. For this reason, we at HUD delayed a RIF as long as we could.

I have been committed to reducing staff as much as possible through attrition. For this reason I put in place a strict hiring freeze. Since October 1, 1981, we have hired departmentwide less than 140 permanent career employees, which is only 1 percent of the Department's employment. About 40 percent of these hires were in the Office of Inspector General. I think this clearly demonstrates my commitment to reduce staff by attrition.

One issue raised is whether retraining and reassigning employees is a practical alternative to a RIF. Unfortunately, as you can see, the areas where we are recruiting are highly specialized. Let me assure you that we do not intend to RIF employees and then hire back in the same job categories. If we did hire back, we would have to give RIF'd employees priority under OPM regulations.

In addition, we have initiated a comprehensive outplacement program at HUD. This program has been successful and has permitted us to keep the size of our headquarters reduction in force to a minimum. The program's accomplishments to date include the following:

We established a special job referral service that automatically refers employees' applications to appropriate vacancies in and out of government. To date, 111 employees have registered for this service and 67 employees have found jobs through it.

Thirty-eight other employees who participated in outplacement activities subsequently obtained jobs outside HUD.

We held special workshops on how to conduct a job search, how to prepare SF-171's and résumés, techniques for job interviews and money management. There were 946 employees attending these workshops.

Our personnel staff helped 132 employees prepare SF-171's and résumés.

We held special workshops on stress management to help our employees cope with the uncertainties caused by staffing changes. There were 286 employees attending these sessions.

We have established special outplacement services for handicapped employees, such as sign language interpreters for hearing-impaired employees, Braille and reading assistance for visually-impaired employees, and special referrals to agencies which are soliciting applications from handicapped persons.

We provide retirement counseling to 1,513 employees.

In addition to this pre-RIF outplacement, we will also provide post-RIF outplacement and counseling services. One tool available to RIF'd employees will be job clubs. These are voluntarily formed groups of employees who will work together and provide each other support in finding jobs.

HUD will support job clubs by making available space, telephones, typewriters, and so forth, and providing a trained manager to counsel the club's members in job hunting techniques and stress management skills.

Even though the Department as a whole is under its yearend ceiling, we still need to reduce in some areas. Let me explain why we are doing this.

When I came to the Department, I found an organization which was consuming a great number of dollars and staff positions for programs which could be run more efficiently. I asked my Assistant Secretaries, who work with the programs on a daily basis, to examine their program and staffing levels with this in mind. This is how we arrived at the various office employment ceilings. These ceilings were included in the most recent budget justification submitted to Congress.

One reason we have to RIF in headquarters is because some offices are over their ceilings and have been for more than 1 year.

For example, the Office of Community Planning and Development had its 1982 ceiling reduced by nine positions. However, CPD is abolishing 25 jobs to get to its ceiling because it was also over its ceiling at the end of 1981.

The same circumstances exist in the Office of Fair Housing and Equal Opportunity. Its 1982 ceiling was cut by 5, but it has to abolish nineteen positions.

When headquarters offices are over ceiling, the Department traditionally would require the field to cover the deficit. I think it is unfair to penalize field offices, which have been conscientious in meeting their cost cutting goals, because of the overage of a few headquarters offices.

Another reason why we must RIF is to take advantage of changes some offices have undertaken to make their operations more efficient, while still performing necessary work. For example, a study conducted in our Office of Finance and Accounting determined that we had 10 full-time people performing a verification

which brought only a few hundred dollars a year into HUD. That was clearly a waste of the taxpayers' money. Because we were not able to utilize these people elsewhere, we are having to abolish their jobs through RIF procedures.

As I mentioned, in taking these actions I am aware of and concerned about their impact on people. I am also aware of the cost of RIF's. However, HUD's average salary cost is $30,000 and the average RIF costs are $9,500. We will also save money on space rental and telephones.

We expect that as a result of this RIF and anticipated attrition next year we will be able to vacate the Bicentennial Building. This will save us $1.2 million in space rental and $48,000 in telephone charges. In addition, having all headquarters employees in one building will improve our operating efficiency and program management.

By taking these kinds of actions, I believe I am fulfilling my responsibilities to the Department's employees, as well as the American taxpayer, to insure that we accomplish our program objectives at the lowest possible cost.

I will be glad to respond to questions concerning these issues.

[Secretary Pierce's prepared statement follows:]

STATEMENT OF SAMUEL R. PIERCE, JR.

SECRETARY OF HOUSING AND URBAN DEVELOPMENT

Mr. Chairman and Members of the Subcommittee: I appear this morning in response to your request for information concerning the Department's actions concerning: (1) implementation of rules regarding tenant rent contributions in low-income housing, (2) a proposed reduction-in-force at HUD Headquarters, and (3) a proposed reorganization of our field operations.

RESOLUTION OF DISAPPROVAL

Mr. Chairman, you asked first that I explain the Department's action with regard to the Banking Committee's adoption of a resolution of disapproval of two interim rules relating to tenant rent increases in public housing and Section 8. The resolution of disapproval, House Joint Resolution No. 480, was reported out on June 2 and was intended, under the provisions of Section 7(o)(3) of the Department of Housing and Urban Development Act, to have the effect of delaying the effective date of the rules for 90 calendar days. Notwithstanding the Committee's action, the Department declared the rules effective on August 1, that is, 30 days before expiration of the 90-day delay period.

The reasons for the Department's actions with regard to the rent increase rules were fully stated in the notices published in the Federal Register on July 16. It is no secret that the Executive Branch, on the advice of the Attorney General, historically has considered that legislative vetoes are unconsitutional. It is also no secret that the Department of Justice, both at the time of enactment of Section 7(o) of the Department of HUD Act in 1978 and at the present time, has considered that the triggering mechanism for the additional 90-day waiting period contained in Section 7(o)(3) is, for constitutional purposes, no different from an outright legislative veto.

The constitutional defect is that the statute purports to allow Congress, by action solely of its Committees, to impose legally binding requirements on the Executive Branch. The statute violates the doctrine of separation of powers and, more specifically, violates the Presentment Clause of Article I of the Constitution which makes it clear that Congress cannot exercise its legislative power by passing measures intended to have a legal effect beyond that needed to rule the Legislative Branch without first presenting them to the President.

I do not propose to pursue at length the constitutional argument. As I indicated, it is well known, as is the fact that the Legislative Branch disagrees with it. That disagreement surely will continue until there is a definitive ruling from the Supreme Court. I would be happy, if you wish, to furnish for the record of this hearing a copy of the advice of the Department of Justice given to President Carter at the time of enactment of Section 7(o) in 1978, as well as a copy of HUD's brief recently

filed by the Justice Department in the litigation pending in the Federal District Court in New York relating to the rent increase rules. I understand that copies already have been furnished to the Subcommittee's Counsel.

That does not end the matter. As you are aware, at the time that President Carter signed the HUD authorization legislation which included Section 7(o), he advised Secretary Harris that notwithstanding the consitutional infirmity of the delay provision, it would be appropriate to adhere to it as a matter of comity between the Executive and Legislative Branches. Indeed, on the same day that the Committee adopted its resolution regarding the rent increase rules, it also adopted a separate resolution of disapproval of an interim rule which we had published adopting cost containment measures relating to the Section 202 program of housing for the elderly. In that case, the Department abided by the Committee's action.

In fact, we have gone further than Section 7(o) would require. We have not merely deferred the effective date of the rule, but have suspended it altogether. We have said that we will treat the published interim rule as a proposed rule, and that we will take the views of the committee, as well as the public comments, into consideration before publishing a final rule.

In the case of the rent increase rules, however, we were confronted with a unique and unprecedented situation in which consideration of comity with this Committee collided with my obligation to execute the law as enacted by the whole Congress. The legislative history surrounding the enactment of Section 7(o) emphasizes that the disapproval procedure was intended to be utilized only when a Committee believes that a Departmental regulation violates the intent of Congress as expressed in specific enacted legislation. In this instance, however, it was the undenied fact that the Committee's objection was not to the Department's manner of implementation of a statute, but to the statute itself.

The rent increase rules implemented an increase in tenant contribution to rent from 25% to 30% of adjusted income as directed by Section 322 of the Housing and Community Development Amendments of 1981. When the interim rules were submitted to the Senate and House Banking Committees for their review prior to publication, as required by our legislative review statute, we received no comment regarding the manner of our implementation from any Committee source. The fact that it was the Majority's objection to the statute itself, and not to the Department's manner of implementing it, that led to the resolution of disapproval is evident from the remarks of Minority members of the Committee in the mark-up session and in their Minority Report, and in the subsequent floor statement by the dissenting member of the Majority -- it is also evident, Mr. Chairman, from your own remarks at the Committee mark-up session.

Mr. Chairman, I have a duty to execute the law as it is adopted by the whole Congress. In this instance, a single Committee of the Congress attempted to bar me from executing the law by means which the Attorney General has advised violate the Constitution. In that unique and, as I say, wholly unprecedented and uncontemplated situation, I do not believe that I have the freedom to withhold implementation of the statute in the name of "comity" with the Committee.

Mr. Chairman, those are the full reasons for our actions regarding the rent increase rules, just as they were published previously, and I don't think that there is anything more that can be constructively said about it.

FIELD REORGANIZATION

With regard to the Department's proposed reorganization, the Subcommittee is aware that significant changes in HUD programs have occurred in FY 1982 and more are planned in FY 1983. Generally speaking, the changes include less activity in the Multi Family Insurance programs, elimination of some programs, transfer of certain programs to the States, and reduced funding levels.

For example, gross reservations for public housing decreased from 46,151 in FY 1980 to 36,370 in FY 1981 to 3100 in FY 1982. Net reservations for all Section 8 programs decreased from 269,703 in FY 1979 to 153,985 in FY 1981. Net Section 8 reservations for new construction and substantial rehabilitation decreased from 145,138 in FY 1979 to 51,635 in FY 1981 and an estimated 8,500 in FY 1982. It is anticipated that in FY 1983 all new construction under Section 8 will be eliminated, except for elderly and handicapped housing.

In the Community Development Block Grant program, changes in the application process will require less intensive application review by HUD. For Urban Development Action Grants, the budget authority will decrease from $675 million in FY 1981 to $440 million in FY 1983. Congress terminated the Planning Assistance program (Section 701), beginning in fiscal year 1982 and no new activity will be undertaken in this program. The Section 312 Rehabilitation Loan program, with total loan reservations of $203 million in FY 1980 and $84 million in FY 1981, is proposed for termination in FY 1983. It is clear that these changes have reduced the need for field staff in the Department.

Accordingly, the Department is proposing to restructure its field organization to reflect the reduced workload and program changes. The key features of the reorganization plan will be to strengthen the role of Regional Administrators and simplify our organizational structure.

Strengthening the Regional Administrator. Presently, the Regional Administrator is generally held accountable for managing Regional operations, but he frequently does not have the managerial controls and flexibility necessary to be completely in charge. On many key issues, the Regional Administrator is bypassed and Headquarters deals directly with field offices.

Under the reorganization proposal, total line and administrative authority over all activities in the Region will be given the Regional Administrator, who, for the first time, will become truly a line manager in the field, fully able to manage and be held accountable. Thus, program attention and authority will be focused on the Regional Administrator rather than on program officials at the field office level.

Changes in Organizational Structure. This proposal also has the goal of simplifying the current organizational structure and reducing overhead and duplication. This would be accomplished in large measure by: regionalization of certain functions such as Labor Relations, Fair Housing and Equal Opportunity, and Economic and Market Analysis in several regions; consolidation of the Regional Office with the collocated Area Office in nine Regional cities, and elimination of Housing Directors in 39 Area Offices.

Regionalization of certain functions would occur primarily in the Boston, Kansas City, and Seattle Regions which have small workloads and/or small geographical areas of responsibility. Regionalization of these functions is the result of reduced workload which no longer justifies a decentralized staff.

The proposal would establish a uniform structure for each type of field office. However, there are some exceptions: CPD, FHEO and Economic and Market Analysis functions will be regionalized in Boston, with toll-free access telephone lines provided for clients in Hartford and Manchester. FHEO operations will be regionalized in Seattle. Labor Relations functions will be regionalized in Boston, Atlanta, Kansas City and Seattle. The effectiveness of regionalizing Labor Relations in Atlanta will be assessed after one year to determine if it can be duplicated in other large Regions.

A second major structural change will be in the consolidation of Regional and Area Offices in nine Regional Cities (Boston, New York, Philadelphia, Atlanta, Chicago, Fort Worth, Kansas City, San Francisco, and Seattle). HUD's offices in Denver are currently consolidated. All existing field offices will remain with the exception of the Dallas Area Office, which will be consolidated with the Fort Worth Regional and Service Offices into one office in Fort Worth. Service office supervisors will report directly to the Regional Administrators.

A second Deputy Regional Administrator position will be established in seven Regions (Boston, New York, Atlanta, Chicago,

Fort Worth, San Francisco, and Seattle) and dual-track housing operations, where single-family and multi-family operations are currently organized separately, will be eliminated and converted to single track operations.

Separate Offices of Indian Programs will be maintained. However, in the San Francisco Region, the bulk of Indian Program operations will be transferred to Phoenix where most of our Indian program activity is located. An adequate staff will remain in San Francisco to provide service to Northern California tribes.

The plan also eliminates the field office designations of "Area Office," "Service Office," and "Valuation and Endorsement Station." These designations have proven to be confusing to HUD clientele. All offices hereafter will bear the simple designation "Office of the Department of Housing and Urban Development."

Consolidation of the nine Regional and Area Offices will result in lower overhead costs, including savings of personnel and reduced space requirements; better use of available staff; elimination of redundant positions and improved service to HUD clients.

There has been concern in some quarters that the consolidated offices would receive a disproportionate share of HUD resources. I can personally assure you that this will not occur. The Regional Administrator will be responsible for the performance of the total Region, not just one office.

Cost and Staff Savings. If the proposed organizational and staffing changes are fully implemented, the field staff would be reduced to 9,404 positions. This represents a potential staff savings of 672 positions when compared to the previous projection of 10,076 for September 30, 1982 and 454 positions when compared to 9,858 for September 30, 1983.

It should be noted that while attrition over time will bring the Department down to its new ceiling, it will not eliminate the need for a reduction-in-force. This is because attrition is not evenly distributed in the field. In addition, the combination of the reduction-in-force process and continuing attrition, especially at the clerical level, will result in staffing imbalances that need to be addressed.

Also, the reorganization anticipates the elimination of approximately 130 managerial positions which are redundant as a result of Regional and Area Office consolidation and can only be eliminated through a reduction-in-force.

MICROFILMED FROM
BEST AVAILABLE COPY

The estimated cost to reorganize will be $5.1 million over a two year period. These costs result from personnel relocation, severance costs, space alterations, movement of furniture and equipment and increased travel requirements. These costs are offset by an estimated $30.0 million in savings over a two year period which can be attributed to reduced personnel costs and lower space costs.

The estimated net savings for the first two years after implementation are between $23.6 and $24.9 million. The exact amount of net savings cannot be estimated at this time because it is impossible to determine the exact number of positions affected by the RIF. However, it is anticipated that the maximum number will not exceed 260, and in fact may be less.

REDUCTIONS IN FORCE

Turning to improvements I have planned for the operations of the Department, I assure you I share the Subcommittee's concerns about the efficient delivery of the Department's programs. At each step of the process, when meeting and discussing personnel ceilings with my Assistant Secretaries, one of the fundamental goals was to assure that whatever changes were made would not reduce HUD's program efficiency. I am confident the actions we are taking will achieve this goal.

I also share your concern about the effect that a reduction-in-force has on the people who work in the Department. For this reason, we at HUD delayed a RIF as long as we could. I have been committed to reducing staff as much as possible through attrition. For this reason I put in place a strict hiring freeze. Since October 1, 1981, we have hired Department-wide less than 140 permanent career employees, which is only 1% of the Department's employment. And about 40% of these hires were in the Office of Inspector General. I think this clearly demonstrates my commitment to reduce staff by attrition.

One issue raised is whether retraining and reassigning employees is a practical alternative to a RIF. Unfortunately, as you can see, the areas where we are recruiting are highly specialized. Let me assure you that we do not intend to RIF employees and then hire back in the same job categories. If we did hire back we would have to give RIFed employees priority under OPM regulations.

In addition, we have initiated a comprehensive outplacement program at HUD. This program has been successful and has permitted us to keep the size of our Headquarters reduction-in-force to a minimum. The program's accomplishments to date include the following:

- We established a special job referral service that automatically refers employees' applications to appropriate vacancies in and out of government. To date, 111 employees have registered for this service, and 67 employees have found jobs through it.

- Thirty-eight other employees who participated in outplacement activities subsequently obtained jobs outside HUD.

- We held special workshops on how to conduct a job search, how to prepare SF-171's and resumes, techniques for job interviews, and money management. There were 946 employees attending these workshops.

- Our personnel staff helped 132 employees prepare SF-171's and resumes.

- We held special workshops on stress management to help our employees cope with the uncertainties caused by staffing changes. There were 286 employees attending these sessions.

- We have established special outplacement services for handicapped employees, such as sign language interpreters for hearing-impaired employees, braille and reading assistance for visually-impaired employees, and special referrals to agencies which are soliciting applications from handicapped persons.

- We provided retirement counselling to 1,513 employees.

In addition to this pre-RIF outplacement, we will also provide post-RIF outplacement and counselling services. One tool available to RIFed employees will be job clubs. These are voluntarily formed groups of employees, who will work together and provide each other support in finding jobs. HUD will support job clubs by making available space, telephones, typewriters, etc., and providing a trained manager to counsel the club's members in job-hunting techniques and stress management skills.

Even though the Department as a whole is under its year-end ceiling, we still need to reduce in some areas. Let me explain why we are doing this.

When I came to the Department, I found an organization which was consuming a great number of dollars and staff positions for programs which could be run more efficiently. I asked my Assistant Secretaries, who work with the programs on a daily basis, to examine their program and staffing levels with this in mind. This is how we arrived at the various office employment ceilings. These ceilings were included in the most recent budget justification submitted to Congress.

One reason we have to RIF in Headquarters is because some offices are over their ceilings, and have been for more than a year.

For example, the Office of Community Planning and Development had its 1982 ceiling reduced by 9 positions. However, CPD is abolishing 25 jobs to get to its ceiling because it was also over its ceiling at the end of 1981.

The same circumstances exist in the Office of Fair Housing and Equal Opportunity. Its 1982 ceiling was cut by 5, but it has to abolish 19 positions.

When Headquarters offices are over ceiling, the Department traditionally would require the field to cover the deficit. I think it is unfair to penalize field offices, which have been conscientious in meeting their cost-cutting goals, because of the overage of a few Headquarters offices.

Another reason why we must RIF is to take advantage of changes some offices have undertaken to make their operations more efficient, while still performing necessary work. For example, a study conducted in our Office of Finance and Accounting determined that we had 10 full-time people performing a verification which brought only a few hundred dollars a year into HUD. That was clearly a waste of taxpayers' money. Because we were not able to utilize these people elsewhere, we are having to abolish their jobs through RIF procedures.

As I mentioned, in taking these actions, I am aware of and concerned about their impact on people. I am also aware of the cost of RIFs. However, HUD's average salary cost is $30,000 and the average RIF costs are $9,500. We will also save money on space rental and telephones. We expect that as a result of this RIF and anticipated attrition next year, we will be able to vacate the Bicentennial Building. This will save us $1.2 million in space rental and $48,000 in telephone charges. In addition, having all Headquarters employees in one building will improve our operating efficiency and program management.

By taking these kinds of actions, I believe I am fulfilling my responsibilities to the Department's employees as well as the American taxpayer to ensure that we accomplish our program objectives at the lowest possible cost.

I will be glad to respond to questions concerning these issues.

Chairman GONZALEZ. Thank you, Mr. Pierce.

As I said earlier, since I had lengthy introductory remarks, my intention was to submit my questions at this time, unless we are afforded opportunity later on. However, in view of your opening remarks, referring to the ones I made on HUD premises, not here, I cannot let your rather inaccurate if not unjust description of me as a racist go unchallenged.

Long before Martin Luther King was heard of, on the local legislative level, I fought singlehandedly at first, in 1954, to be exact, against the racial ordinances belatedly promulgated on the city level of San Antonio.

I had the privilege of leading the fight that led to San Antonio being the first city south of the Mason-Dixon line to eliminate discrimination on the basis of race, color, or creed on any tax-supported municipal facility. Martin Luther King wasn't even a name at that time.

I went to the State senate right after that and found myself involved in taking the leadership and, again singlehandedly after Little Rock, in fighting and defeating the only State legislature where the massive kind of resistance laws initiated in Virginia, circulated through 11 Confederate States, were even debated, much less succeeded. I used the filibuster in the State senate to defeat 14 of the 16 race bills introduced.

The race bills were directed against that particular group of Americans that I think in my district have represented an infinitesimal minority.

Politically, there would have been no dividends, as there were not then, but my faith in the overwhelming good judgment of the overwhelming preponderant majority of Americans I think has paid off because I am here today, when it was predicted it was suicide at the time.

So, I think that in the light of that, your charge of racism is unjust and untruthful.

Second, the reasons—I think that the hypocrisy of your statement ought to also be exposed. In the first place, last week, being Hispanic Heritage Week, which President Reagan proclaimed, the unanimous desire of the HUD employees so engaged was to seek me out as the official speaker for that occasion. You explicitly and singularly refused to extend that invitation to me.

Secretary PIERCE. That is a lie. That is a damned lie, and it is the only way I can put it, Mr. Chairman. I am sick and tired of that kind of talk. That is a lie.

Chairman GONZALEZ. Well, let me put it this way. If you are correct, then a very faithful and up to now a very truthful corps of employees were not telling or reporting the truth.

Secretary PIERCE. That may well be, but I am telling you what you are saying is a lie.

Chairman GONZALEZ. Mighty fine. All I know is what the group involved in extending the invitation reported to me. Not that that made any difference, may I point out. I couldn't fulfill all the invitations that I had last week. I don't know whether I could or could not have accepted, since I didn't receive an invitation from HUD, and it made no difference. I don't interpret that as any act of particular personal convenience or what have you.

On the other hand, what about the fact that in this RIF'd group, again based on HUD employees presently in your employment, a disproportionate number of your RIF'd employees are Hispanic? And let me say that I don't like labels. I don't even like to say black Americans because I have always felt the idea was we are either Americans or we are not, and if we are not, then I certainly want to know what we are.

But what about the fact that a disproportionate number of your RIF'd employees are Hispanic? The figure that has been given me—and I don't know, you may deny that, too, or corroborate it—is that it is in excess of 33 percent, in a group that is already an infinitesimally small group of employees in HUD, not only in the national headquarters, but throughout the country, even in my own district, where we have a fairly heavy concentration of that particular group.

Then third, the fact that the only viable national organization, the Hispanic Housing Coalition, is out of existence now. I couldn't manage, along with the leaders of that organization, to obtain a meeting with you.

I did so, as I explained—I went through channels, let me say, so that there would not be any kind of an intimation that I am not a respecter, as I have been since I served on the local legislative body, of the clear line of demarcation, as I explained, between administrative and policy or legislative.

You know, I worked on that side, too. I am very sensitive about it. Therefore, I went through channels, as well as an attempt to personally assure you that if I were seeking an audience for this particular group, it was only because they were a national group. They were not a local political group. It is the only viable group on a national basis that reached the point of truly being organized on a national basis. Why you refused, I don't know. All I know is that you refused there.

So that given these three basic deliberations, I think you can understand the reason, not emotional, but based on 1 year and 8 months of observation, for the statements that I did make when I went to HUD to make them. I didn't make them here.

I do think that in light of the fact that you are attributing racism to me, that it impels me to go on the record this way.

Secretary PIERCE. I don't know whether you know it or not, but you ought to look at a case. It was a case involving Steppin Fetchit. He sued CBS and got a lot of money for it. Maybe he will sue you, and you will find there are a lot of racial things involved in what you said. If you don't know it, maybe you ought to get educated.

Chairman GONZALEZ. Well, by the same token, if you want to you can call me Charlie——

Secretary PIERCE. What for?

Chairman GONZALEZ [continuing]. But my name is Erico.

Secretary PIERCE. That doesn't prove anything, doesn't do anything. If I have done something wrong, say it, what is it, how I have done it. If you disagree with what I have done, say it. There is no need for Steppin Fetchit, Rastus, or any other word, anymore than I would say something about your activity in Congress and in that statement refer to you personally by a name Mexican-Americans would consider derogatory and racist.

Now, I would never do anything like that. I wouldn't expect other people to do it. I think people, when they get to a certain degree of education and attain positions of responsibility should be able to use the English language well enough to say what they like or dislike about a particular position or a person, and you don't need to use racial epithets.

Mr. MITCHELL. Mr. Chairman?

Chairman GONZALEZ. Yes, Mr. Mitchell?

Mr. MITCHELL. If you would yield briefly to me. This is all very interesting and exciting, but I have a great deal of difficulty seeing a contest develop which results in these excretions—you know the kind of contest about which I am talking.

That is why I am here this morning. I have several specific questions I would like to ask the Secretary about the reorganization and the RIF's, et cetera. I was wondering if we would be given an opportunity to deal with the substance of what the Secretary is doing, with which I most disagree.

Chairman GONZALEZ. The chairman is well aware of the fact that is what we are going to go right into. I appreciate the instructions in the English language.

Yes, Mr. Coyne?

Mr. COYNE. Thank you, Mr. Chairman.

I must also express my displeasure and disassociate myself from the comments of the chairman earlier. I want to add that I have never been more disappointed in the profession of politics than when I see this type of mudslinging.

I want to commend the Secretary for his courage in coming here today and confronting the mudslinger. I think it is a testament to his integrity. I know how painful it must be for him to sit there.

I am not going to try to lengthen this difficult time or to extend his, but I wish to congratulate him for having the courage to come here this morning.

Thank you, Mr. Secretary.

Chairman GONZALEZ. Mr. Mitchell?

Mr. MITCHELL. Thank you, Mr. Chairman.

Mr. Secretary, I want to say that I think one of the most unkind, cruel and venial things this Congress has done was to increase the tenant rents up to 30 percent for those that could least afford it.

I had hoped that out of the same kind of comity that former President Carter attempted to achieve you would have taken some action to prevent this burden from being imposed on those of our citizens who simply cannot afford to pay the increase in rent.

Unfortunately, the advice of your Attorney General caused you to do otherwise, but I think that this will stand as one of the most stark and revealing indices of the lack of compassion of this administration.

I have several additional questions to raise with you. The first is that as a black American I received a number of complaints about the RIF procedure. A number of those complaints center on the fact that apparently a disproportionate number of blacks and minorities are being RIF'd as opposed to majority employees.

Would you please comment on that?

Secretary PIERCE. At this point, I cannot tell you exactly what the numbers are. In fact, I don't think we really know the exact

numbers, as I indicated in my statement. We are trying to work out what the percentages will be with the estimated numbers that we are going to get.

My Assistant Secretary for Administration, who is here today, was telling me yesterday she is working on that and will have information on that very shortly.

Mr. MITCHELL. I would like to see that as soon as possible.

Secretary PIERCE. We will be glad to give that to you.

I do know from the nature of this RIF there are going to be quite a few of, shall we say, middle management or higher management people displaced. There are going to be a lot of so-called white Anglo-Saxon Protestants taken out of jobs, too.

Mr. MITCHELL. Let me indicate that this allegation has not only been raised against HUD, it has been raised against the broad spectrum of Federal agencies which are RIFing. It basically says that those who are black and minority are disproportionately RIF'd. I will await the report on the percentages and would like to get it as quickly as possible.

[The Department submitted the following information for the record:]

THE SECRETARY OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410

October 7, 1982

Honorable Parren Mitchell
House of Representatives
Washington, D. C. 20515

Dear Mr. Mitchell:

At the Committee hearing on September 21, I promised to send you data about the impact of the Headquarters RIF on minority employees at HUD, as well as details about the Office of Fair Housing and Equal Opportunity's (FHEO) budget.

At present, we are abolishing 95 positions at Headquarters through RIF. Our data shows that RIF does not disproportionately impact minority employees at Headquarters. Currently, there are 1785 minorities in our permanent full-time Headquarters employment of 4075. After the RIF, there will be 1735 minorities in our permanent full-time Headquarters employment of 3980. This represents a reduction of only .2% in the HUD Headquarters permanent full-time employment of minorities.

Of course, as attrition occurs during the RIF notice period, the situation will change, and fewer employees may have to be separated. In addition, 29 of the employees to be separated are clerk-typists or secretaries. Because there is constant turnover in these job categories, we plan to offer these employees immediate temporary appointments. Then, as permanent clerk-typist and secretarial positions open up, we plan to place these people in them. The large majority of these employees (22 out of 29) are minorities. Enclosed for your information is a table with detail on the major minority groups.

I am committed to the Department's equal opportunity programs, and the FHEO budget demonstrates my commitment. FHEO is one of the few programs in the Department with a higher budget in Fiscal Year 1982 than in 1980. In FY 1980, FHEO had $3.7 million in Fair Housing Assistant funds; in FY 1982, this increased 35%, to $5 million. FHEO's operating funds were also increased, from $18.4 million in FY 1980 to $22 million in FY 1982, a 20% increase. In addition, staffing for FHEO nationwide has remained constant; there were 568 permanent full-time staff on board at the end of FY 1980, and FHEO's FY 1982 nationwide end-of-year ceiling is 569.

I trust that this information alleviates your concerns about minority employment and equal opportunity programs in the Department. I will be happy to discuss this with you or provide any other information you need.

Very sincerely yours,

Samuel R. Pierce, Jr.

Enclosure

MICROFILMED FROM
BEST AVAILABLE COPY

September 28, 1982

Percent of HUD Headquarters
Workforce

Employee Groups	Before RIF		After RIF	
	Number	%	Number	%
Total Headquarters Employees	4075	100%	3980	100%
Black Males	412	10.1	390	9.8
Black Females	1231	30.2	1210	30.4
Total Blacks	1643	40.3	1600	40.2
White Males	1543	37.9	1524	38.3
White Females	747	18.3	721	18.1
Total Whites	2290	56.2	2245	56.4
Hispanic Males	38	.9	36	.9
Hispanic Females	41	1.0	37	.9
Total Hispanics	79	1.9	73	1.8
Other Minority Males	40	1.0	40	1.0
Other Minority Females	23	.6	22	.6
Total Other Minorities	63	1.6	62	1.6

MICROFILMED FROM
BEST AVAILABLE COPY

SHIP AT LARGE

COMMITTEES
CHAIRMAN SMALL BUSINESS COMMITTEE

SUBCOMMITTEES
CHAIRMAN OF THE SUBCOMMITTEE ON SBA AND SBIC AUTHORITY, MINORITY ENTERPRISE AND GENERAL SMALL BUSINESS PROBLEMS

BANKING, FINANCE AND URBAN AFFAIRS COMMITTEE

SUBCOMMITTEES
DOMESTIC MONETARY POLICY
HOUSING
GENERAL OVERSIGHT

JOINT ECONOMIC COMMITTEE

SUBCOMMITTEES
INVESTMENT, JOBS AND PRICES
TRADE, PRODUCTIVITY AND ECONOMIC GROWTH

PARREN J. MITCHELL
7TH DISTRICT, MARYLAND

Congress of the United States
House of Representatives
Washington, D.C. 20515

CONGRESSIONAL BLACK CAUCUS
CHAIRMAN OF THE SUBCOMMITTEE ON MINORITY ENTERPRISE, ECONOMIC DEVELOPMENT AND HOUSING

OFFICE ADDRESSES
DISTRICT OF COLUMBIA OFFICE
2367 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, D.C. 20515
(202) 225-4741

BALTIMORE DISTRICT OFFICES:
GEORGE FALLON FEDERAL BUILDING
ROOM 1018
31 HOPKINS PLAZA
BALTIMORE, MARYLAND 21201
(301) 962-3223

1903 BLOOMINGDALE ROAD
BALTIMORE, MARYLAND 21216
(301) 962-4531

October 21, 1982

Honorable Samuel R. Pierce, Jr.
Secretary
Department of Housing and Urban
Development
451 Seventh Street, S. W.
Washington, D. C. 20410

Dear Mr. Secretary:

Thank you for sending me the back up information concerning the impact of HUD's reduction in force on minority employees.

My arithmetic shows that, as of now, slightly more minorities were adversely affected by the RIF than non-minorities

1785 - minorities	2340 - non-minorities
1735 - minorities after the RIF	2295 - non-minorities after the RIF
50 - minority positions abolished	45 - non-minority positions abolished

I am encouraged about FHEO. It is unfortunate, however, that the Attorney General is apparently reluctant to prosecute violations of Fair Housing Laws.

I am most appreciative of your cooperation in providing further information of RIF activities at HUD.

Sincerely,

Parren J. Mitchell, M. C.

PJM:vc

MICROFILMED FROM
BEST AVAILABLE COPY

Mr. MITCHELL. Another allegation that I am hearing very, very frequently, not just with regard to HUD but with regard to all of the agencies, is that it would appear that those segments of various agencies devoted to affirmative action and equal opportunity have again disproportionately borne the blows from RIF's.

Those who have presented these arguments to me indicate that the administration has publicly stated its position vis-a-vis affirmative action, and they conclude that one way of stopping affirmative action is by cutting deeply into those sections of agencies which deal with fair housing or equal opportunity or affirmative action.

Now, I noted that in HUD, in your procedure, there has been a significant reduction in the staff of the Fair Housing and Equal Opportunity Office. Is that correct?

Secretary PIERCE. Not when you compare it to the entire Department. What has happened really with our Fair Housing and Equal Opportunity, that is the only office in HUD that has been able to keep their budget at the same or a better figure in the last couple of years. I think in 1983 they go down very slightly. They have done much better proportionately speaking than any other office in HUD in keeping their budget figures.

Also, I think you will find that proportionately speaking there is no unfair reduction in the number of people taken from FHEO. In fact, FHEO, in my opinion, in my shop, does very well moneywise.

Mr. MITCHELL. I have asked my staff to take a look-see at all the agencies with regard to the impact of cuts, RIF's, on affirmative action programs and equal opportunity.

I regret to say that I don't have hard data on the Fair Housing and Equal Opportunity unit in HUD, but I would say that based on preliminary data it appears there is a pattern, a pattern—if I may finish, please—a pattern that extends itself across all the agencies. I think this is properly interpreted by black Americans as meaning a further retreat on the part of this administration with reference to civil rights.

Secretary PIERCE. I would be very happy to give you our figures on FHEO. They have done I think quite well compared to the rest of HUD.

Mr. MITCHELL. Do I have time for an additional question?

Chairman GONZALEZ. You still have time.

Mr. MITCHELL. Thank you.

If I recall correctly, when the now President was campaigning for office, one of his campaigning slogans was he would reduce the ranks of Federal employees by approximately 1 million people. This was part of a quote, "getting the Government off the backs of people," end of quote.

If I am accurate, does it not suggest to you that efficiency, delivery of systems, has nothing at all to do with the RIF's? This is simply an implementation of a capricious decision made by the President when he was campaigning, the capricious decision which is being arbitrarily implemented simply because the President wants a reduction?

Secretary PIERCE. No; I can't agree with that. I think that what the President had reference to was that he expected to reduce Government spending. By reducing Government spending and reducing

Government programs, there is less need—just a matter of commonsense—for as many people to administer those programs.

That is what I think he had reference to. If you reduce the size of a business, you are going to have less need for as many employees as you had before the reduction. I think that is just what the President was saying.

Mr. MITCHELL. Well, it would be awfully difficult for me to get inside of the mind of the President and attempt to follow the—I started to say "devious" but that is not the word that I wanted—complex thinking that he generally pursues.

One last question.

In your testimony you refer to a decrease in reservations for housing. These have significantly dropped, and therefore you feel free to make some reorganizational changes and to make some RIF's.

Is it possible that the decrease in reservations stems from not a need for housing, but God knows in every city in this country people are desperate for housing. Is it possible that it stems from the fact that people who are desperately in need of housing are not seeking reservations because this administration has made it very clear that it is going to retreat from the Federal Government's role in housing. Therefore, these citizens, who would have applied, might have sought to get safe and sanitary, decent housing for themselves and their families, are simply aware of the fact that nothing will be done for them?

How do you attribute this decrease in reservations? It is certainly not a cause of increased public housing. It is certainly not because the private sector has suddenly created a lot of affordable housing for people. How do you explain the decrease in reservations?

Secretary PIERCE. Well, actually a study was done by the Rand Corp. and our Office of Policy Development and Research. They have found that there is actually no nationwide shortage of rental housing in this country.

Now, that may be laughed at, but that is the fact concluded from the study. They did find there were pockets or areas where there would be need for rental housing. For example, a number of Northern cities and Midwestern cities have pockets or areas where they need some rental housing.

What we think is that most of this could be supplied—since most of these old cities already have some empty buildings—by rehabilitation. You don't have to build new housing, but you can do it through rehabilitation. We put in our budget proposal request to get some funds for a rehabilitation program to help with this situation.

Also, we think that as the economy begins to turn around and interest rates go down—and they are on their way down now, there is no doubt about it, both the prime rate and the longer term rates—that will start the private sector building more housing.

Through this combination we think there will be sufficient housing for the people of this country.

Mr. MITCHELL. I firmly disagree. My time is up. Let me just say with reference to the brilliant, scholarly study that was done, at

one time brilliant people thought the Earth was flat and tomatoes were poison.

Thank you, Mr. Chairman.

Chairman GONZALEZ. Mr. Coyne?

Mr. COYNE. I would just like to ask in response to the last question, Mr. Secretary, isn't it true that individuals do not apply for reservations, but it is rather developers that make the reservation applications?

Secretary PIERCE. I didn't get the last part of your question.

Mr. COYNE. It is developers that make the application, not individuals.

Secretary PIERCE. Yes; it is developers, companies.

Mr. COYNE. So it is clear that the number of reservations has little to do with the number of individuals needing housing, either directly or indirectly?

Mr. MITCHELL. Will the gentleman yield?

I think that it does. I think developers are well aware of the fact if there is a demand out there, they will develop. However, I think in this case, like the people themselves who are frustrated by these policies, the developers know this administration is turning its back on the Federal role in housing. So, there is a relationship.

I thank you for yielding to me.

Mr. COYNE. My pleasure.

I think in fact the developers respond more to the notice of availability than they do to this perceived demand that my colleague, distinguished colleague, is referring to. Obviously demand is something difficult for a developer to appraise by himself.

I just wanted to make that point because there is frequently some confusion about it. I wanted to try to clarify it.

Again, Mr. Secretary, I thank you for your patience.

Chairman GONZALEZ. Mr. Vento?

Mr. VENTO. Thank you, Mr. Chairman.

I really hope that we can get out of this personality war and get on with the major issues. I think we would be doing our jobs a little better.

Mr. Secretary, one of the comments that I was reading that you made, this Rand study, that there are adequate apartments or adequate rental space, is that the reason that the Department refused to work with the city of Rockford, Ill., in terms of providing the city with the opportunity to paint and rehab the building last week? It was reported in the Washington paper here, I noted it, that the option was to bulldoze down and destroy those apartment buildings in Rockford, Ill., an area where there is some housing shortage I believe, rather than work with the community to provide an opportunity for the city which was seeking them out to rehab them. Is it based on the Rand study, or is the policy going to be to give up on these areas that need rehab and so forth?

Secretary PIERCE. I think that is a very confused situation. It is like most reports you read about in the papers: highly superficial. The Washington paper failed to disclose all the facts. If you would like, we could give you a complete history on that, or I think Mr. Abrams is here, who has been working on that matter. If you want to hear from him, he would be glad to talk to you about it. It is a long and complex situation.

Mr. VENTO. I am sure it is. We obviously are in a situation where we have to reduce these to a couple of statements. Maybe Mr. Abrams could do that for the benefit of the committee. I know it concerned me. I hope—I think it concerned you, Mr. Secretary.

STATEMENT OF PHILIP ABRAMS

Mr. ABRAMS. At the direction of the Secretary, I made an investigation of the particular circumstances after the Washington Post story came out.

First of all, the story is inaccurate in terms of it being public housing. It was not public housing. It was an insured housing project that defaulted. It has been vacant at least 4 years. The mayor of the city has implored us to demolish the property. As a matter of fact, at one point he insisted we demolish it because it was such a blight on the community he wanted it demolished so if we sold it no one would ever try to rehabilitate it and use it for housing. He changed his opinion publicly over the summer, although privately he still has been encouraging us to demolish the property.

We would be glad to sell it to the city for a dollar, or for whatever value the city places upon it. It is not a valuable housing resource. The one person who has gone into court to enjoin us from doing the demolition is asking us for $65,000 a unit to rehabilitate what remains of the project, which is not—which we don't have the resources to provide and is not a reasonable disposition of the property.

Mr. VENTO. We certainly understand you don't have the resources, Mr. Abrams, but I can appreciate that particular aspect.

Let me take this back to another subject that is on our agenda today, and that is section 202.

Mr. Abrams, if the Secretary would like you to stay, it is certainly up to his pleasure. I would be happy to have your comments too on it. And that is the section 202 issue which is on our agenda today.

One of the concerns—we had a policy apparently here of selling out these particular contracts, one apparently that has now been arrested at the moment, but it is one I assure you we all have a very deep interest in because clearly it is—in my judgment, from what I have heard about the section 202 policy, in terms of selling out these contracts, is that in some of the better housing units that we have in section 202 that are going in this direction, and I would like to know what the status of that is, what the intent is for the near terms they continue to authorize.

It seems to me they represent some of the best bargains that we have for filling out those contracts, meeting the housing needs of the elderly. I would just like to understand more perfectly what the Department's posture is with regard to that, Mr. Secretary.

Secretary PIERCE. Well, we have no policy whatsoever to sell section 202 housing. We have taken it under consideration at times. But there is no policy in our Department to sell section 202 housing on a general basis.

Mr. VENTO. Mr. Secretary, accelerated prepayment of the contracts that in essence—maybe my terminology isn't—but I mean this seems to me to be the accelerated prepayment and the contest-

ed cases and protests that have gone on with regard to that; surely you are aware of it, or Mr. Abrams is aware of it.

We would like to know what your intent is for the future. Do you share the view, my view, and I believe that of the committee, that some of this is good condition section 202 housing, represents a good bargain and a commitment that we ought to keep with respect to it? I am trying to—I think it is an opportunity here for you to say whether you support that posture or you have a policy or an attitude that is different from that which apparently—which I hope I am espousing clearly.

Secretary PIERCE. No. I just told you what our policy is and what I believe. And I think it is that we do not seek to sell, speed up the payments of, or anything else, of section 202 housing.

Mr. VENTO. What of the protestations then that have come in? What is your explanation of the instances where there have been complaints and that you actually have now in court I believe with regard to that particular issue? Can you explain that?

Secretary PIERCE. It is the one in California I think you are talking about.

Mr. VENTO. That is right. How did that circumstance arise?

Secretary PIERCE. I will tell you how that came about.

People that owned that housing, a religious organization, came in and they indicated to us that the religious organization wanted to have this housing for people of that denomination. But we insisted that they should continue to take care of the people who were there. In other words, anybody who is a tenant there can stay there, for life or for whatever time they want to stay there.

As they were going to use it for people of their own faith, we thought that would be all right. And they also indicated to us that if they did sell it, they would use the money to build more housing. We decided to try to cooperate with the organization, but things have not worked out very well.

Mr. VENTO. A little bit of a problem, wasn't there, since the court held that the commitment to utilize the resource for additional housing was invalid, isn't that correct?

Secretary PIERCE. No; I don't think the court decided that.

Mr. ABRAMS. As I understand it, there was a motion to stop any further proceedings until the court had an opportunity to hear the case. At that point, the church sponsor asked if they could have time to negotiate with HUD to reinstate the mortgage, which HUD has been willing to do since the sponsor indicated that they misunderstood the terms of the payoff of the mortgage.

Mr. VENTO. Let me just alert you to the fact that I think that sometimes, especially with a contract that is several years old, under different interest rates and so forth, really represents a pretty poor buy for us in terms of permitting prepayment. I think maybe transferring the contract or doing something else in that instance rather than trying to come back would have been a more prudent alternative.

I yield to my colleague.

Mr. MITCHELL. I am also curious about this case. I don't know all the facts but, as I understand it, as soon as the corporation prepaid the loan, the property went on the market for $6 million. And then

the rents were increased from $190 to $295. Do you have any knowledge of that?

Mr. ABRAMS. To the best of my knowledge, the owners, after they paid off the mortgage, started talking about selling the project and increasing the rents, which is a clear violation of the agreement that they made with HUD. And we intend to enforce the agreement.

Mr. MITCHELL. What did you do about it?

Chairman GONZALEZ. The gentleman's time has expired, long ago expired.

Secretary PIERCE. We are in the court.

Mr. VENTO. Mr. Chairman, just one additional question, with the indulgence——

Chairman GONZALEZ. If there is no objection.

Mr. VENTO. One of the concerns we have had is the Solar Energy Conservation Bank. I am pleased with the court decisions. Apparently now HUD is moving forward to take into consideration, has put out a solicitation for State plans for utilization of those resources.

One of the concerns Mr. D'Amours, a member of this subcommittee, who has other responsibilities, asked me to raise, was the possibility of extending the deadline for solicitations to the middle of November, especially in light of the problems that have preceded this, and the fact that HUD, given the timeframe in which they had to function, has chosen not to put out rules and regulations but apparently to base the rules and regulations on the solicitations that are submitted by October 15. Is there any possibility of that, Mr. Secretary?

We share a great urgency, of course. Understand the Administration was contrary to that in terms of this, but now apparently we are working on a path to properly implement it. Is there any possibility to extend the time for solicitations to be submitted to you and to your office with respect to the solar energy conservation matter.

Secretary PIERCE. Extend it to November 1; is that what you are talking about?

Mr. VENTO. November 15 or to a later date than what has so far been set as a target, Mr. Secretary.

Secretary PIERCE. Let me talk to my people in the Solar Energy Office and we will find out.

I would have no objection to it off the top of my head, but I mean I don't know, there may be technical reasons why we cannot do it. I would have to check that.

Mr. VENTO. Mr. Secretary and Mr. Chairman, I hope that we can work together on that because this is a program that I think has a lot of support on both sides of the aisle in Congress, and we appreciate your help in facilitating that, Mr. Secretary.

Thank you.

Thank you, Mr. Chairman.

[At the request of Congressman Vento, the following additional information was submitted by the Department for inclusion in the record:]

The Bank has extended for 30 days the due date for submission of State proposals to participate in the bank program, in order to permit States to improve the propos-

als they would have submitted on the original October 15 due date. The new due date of November 15, 1982, announced by a notice in the Federal Register on October 15, was announced to the States directly.

Chairman GONZALEZ. Let me say this at this point both Mr. Wylie as well as Mr. Schumer had indicated something that I should have explained at the beginning. We are in conflict with a meeting chaired by the full committee chairman on a very important matter to which all of us had been invited. I myself had been requested to be present during the financial depository institutions hearing, which is a very important hearing. This is the reason why some of the members have absented themselves at this point.

Mr. Schumer?

Mr. SCHUMER. Thank you, Mr. Chairman, and that explains my coming in and leaving after I ask questions, which I apologize to the Secretary and the committee chairman for doing.

Mr. Secretary, do you want a housing authorization bill passed by the House before Congress adjourns?

Secretary PIERCE. In fact, the kind of bill we want to put in for the next round requires housing authorization. So I would not object to it.

Mr. SCHUMER. Would you think it is important for housing policy? There are various authorization bills floating around. I am not asking you to comment on the specifics of one or the other. But do you feel it would be important for this body, for this Congress to pass one this year, or just to go with a continuing resolution or leave the whole thing to the Appropriations Committee?

Secretary PIERCE. Well, if this came down to the wire, as to whether you should put that in or not get an agreement to some bill, I would say get the agreement and let the housing go for this year. We are certainly going to put it, or try to get it in next year.

Mr. SCHUMER. OK. Thank you.

The next question I have relates to a specific problem that we have in Brooklyn. A group of over 100 churches, who told me they had met with you about 1 year ago, have put together something they call the Nehemiah plan, named after Nehemiah, the prophet who rebuilt Jerusalem. They have gotten the city and private church groups involved, the bishop of Brooklyn Diocese has taken a leadership role. They hope to build 5,000 units of housing in bombed-out areas in Brownsville, Ocean Hill, east New York, which is not in my district, but nonetheless I am concerned about those areas as a Representative from Brooklyn.

One of the problems that they have is that even with the city's contribution of the land and $10,000 to each home, and the churches' contribution, which is similar to the city's contribution, the people they want to make these homes available to, working people, cannot afford 30-year mortgages at current interest rates. They visited me yesterday and asked me if there was any way that the Federal Government could help.

I know it is quick to ask you off the top of your head. But maybe you or one of your advisers in the row behind you have an idea of some way that this project could work. Basically, it is the kind of self-help project I know the administration has encouraged. It is the only glimmer of hope we really have in New York in the hous-

ing situation right now. And the people are quite eager and desperate for some kind of help.

Would you have any suggestions as to what could be done?

Secretary PIERCE. I gather that what you are saying is that these people need lower interest rates? Is that what they need?

Mr. SCHUMER. Well, they are not going to get lower interest rates for a while.

Secretary PIERCE. I am not sure of that, because interest rates in certain areas are coming down. Certain banks are moving very much to reduce interest rates.

Mr. SCHUMER. Assuming the interest rates got down to 9 percent, they would still have difficulty. They are now in our area at 14 percent. I don't think, Mr. Secretary, any economist projects that mortgage interest rates will go down to 9 percent within the next year. I have not seen that anywhere.

Secretary PIERCE. Are you saying that they want something from the Government, an amount of money from the Government?

Mr. SCHUMER. Some kind of help from the kinds of programs that are remaining.

Secretary PIERCE. I don't see any program that we have that could do that.

Mr. SCHUMER. My final question is whether or not you think housing has borne a disproportionate burden of the cuts that the administration has made. We have now been here almost 2 years. Do you think the size of cutbacks that we have all had to live with, with OMB and the White House leading the charge, has been fair to housing, or do you think the cuts might be disproportionate?

Secretary PIERCE. Well, it certainly has been a tough burden. However, without actually going through a very careful statistical analysis, I would not want to say its burden has been greater than other departments, because I know that a number of other departments have had very substantial reductions in their budgets—Labor, Transportation, HHS and others—not in social security or other so-called entitlement programs, but in their regular programs, they have suffered greatly too. I would say all of the social service programs have been cut very substantially in the last 2 years.

Mr. SCHUMER. While you might find individual programs that have been cut at a severe level, and certainly there are many of them, it is my understanding that not a single functional category in the budget has been cut to the extent that housing has.

Mr. Secretary, I have a great deal of respect for you. I just wonder, when you go back in your huddle with your advisers at HUD, how people whose mission it is to help housing can actually live through all of this. The administration's budget last time proposed negative $9 billion for fiscal year 1983, which was upped to negative $5 billion for the budget resolution. It was only the Republican Senate, with a $10 billion budget, that left any housing program at all. Don't you sometimes late at night open the window at your HUD office when you are working late and scream?

Secretary PIERCE. Let me tell you how I justify it, and it is this way: It is very, very important that we turn this economy of ours around. It is in very, very bad condition and has been for a number

of years. We have to do that and in order to do that we are going to have to reduce Government spending.

Now, where can it come from? It has to come out of existing programs. And if we are able to reduce Government spending and get the economy going, then building will start. Interest rates will come down, and the builders will start again. And they have said that over and over again. They have said their main plight is the interest rate.

Well, in order to get that interest rate down, we are going to have to get a sound economy. And in order to do that we cannot have huge deficits. We have to cut the deficits. Now, you may disagree with me where the cuts should be made. You may say why not cut social security; you can find billions of dollars there to cut. You could say why not go to the Defense Department, cut there. This is——

Mr. SCHUMER. That is not my point. Interest rates are not a panacea to the Nation's housing problems. And that is the thing that I guess you and I have almost fundamental disagreement on.

If interest rates were to drop to 6 percent tomorrow, there would be a lot of private houses being built in Orange County, and probably in Suffolk County in our own State. There would not be any nonluxury housing built in New York City. There would not be housing for the poor and lower middle-income people, as this Nehemiah plan reveals. So you are faced with two alternatives, and I don't see a third. Maybe you do.

One is for the Government to do nothing, and just say "tough rocks," until you can make it in the free enterprise system you are not going to have any housing. The other is for the Government to step in and aid them, albeit in a different way than has been done in the past 4 years. But even interest rates going down to 3 percent, which will not solve the housing problem of 20 percent of this Nation's population. It is easy to hide behind high interest rates and lowering them will help in some places. It won't help everything.

I read your policy as writing off a certain portion of the poorer people, black and white, of this country. And that is what the really frightening thing to me is. That is the policy decision that the administration has made. Every time we have asked these questions, you come back to interest rates. You give a person a $60,000 house for free, no principal, no interest. Many people in this country cannot afford to maintain it.

Secretary PIERCE. Well, what about the vouchers?

Mr. SCHUMER. You are faced with a choice. It is a tough choice.

Secretary PIERCE. What about the voucher system? Are we giving away money or not?

Mr. SCHUMER. The voucher system is a possibility. There are so few of them, and I don't think they work. But again, that is a policy difference.

Secretary PIERCE. That is a great difference, because we have already seen it work.

Mr. SCHUMER. OK. Let's assume it works.

How many vouchers were in this budget? How many?

Secretary PIERCE. Yes, but——

Chairman GONZALEZ. The gentleman's time has expired.

Mr. SCHUMER. Thank you.

Chairman GONZALEZ. Mr. Secretary, if you wish to answer completely?

Secretary PIERCE. No, that is all right.

Mr. SCHUMER. I would like you to answer.

How many were there? I know.

Secretary PIERCE. There were not many. But after all, the Congress puts them in the appropriation legislation, doesn't it; if the Congress wants to put more of them in, put them in.

Mr. SCHUMER. Wait 1 second, the fiscal year 1983 budget the administration submitted contained such a pitiful number of vouchers, it was less than even existing section 8 certificates in this budget. One cannot be serious and say that you are doing something for all these people when you ask for 30,000 vouchers.

Secretary PIERCE. Well, I agree with that. It is a question of where you are going. I am talking about the system. Maybe it has to get more vouchers in it. But that is where I thought Congress did something. It should add to, take away from, or do something about the number of vouchers requested, if it is concerned with the number requested.

Mr. SCHUMER. In other words, you think that the Congress is more to blame for the lack of a housing program than the administration, when the administration submitted a budget of negative $5 billion and Congress moved it up to $10 billion? That is disingenuous, I have to tell you.

Chairman GONZALEZ. The gentleman's question is kind of disingenuous itself.

Mr. Hoyer?

Mr. HOYER. Mr. Secretary, I know it will shock you that I am concerned about the RIF's. At the outset I associated myself with the remarks of Mr. Vento, and I understand my colleague from Maryland, Mr. Mitchell, also made some remarks. I would like to associate myself with those remarks as well.

From my experience in politics, it is very difficult to stay nonpersonal, but it seems to me it is critical to do this if we are going to do anything effectively, at least in any level of government.

Mr. Secretary, in a meeting on July 9 with your staff, it was my understanding that the management studies upon which you have based your reorganizational decisions were to be provided to this committee, to the subcommittee. In fact they have not, and it is my understanding that the material is not even due in your shop until October 8, 1982. First, is that the case, and second, if that is the case, how can we posit management reorganization upon this material if it is not yet available?

Secretary PIERCE. First of all, you say that there was a meeting when—September 9?

Mr. HOYER. July 9.

Secretary PIERCE. With whom?

Mr. HOYER. Subcommittee staff.

Secretary PIERCE. And who else?

Mr. HOYER. With reference to reorganization, and with your——

Secretary PIERCE. I don't know anything about that meeting. I don't know what material was promised. I know the material we

have been working with. I didn't know any was promised to your staff. I don't know anything about that.

Mr. HOYER. The material was, as I understand it, the basis for reorganization within HUD.

Secretary PIERCE. We handle a lot of material on the basis of reorganization within HUD. However, I don't know what was supposed to be given to your staff.

Mr. HOYER. I understand specifically the meeting was with Assistant Secretary Tardy.

Secretary PIERCE. Well, let me have Ms. Tardy stand up here. She can tell you.

STATEMENT OF JUDITH L. TARDY

Ms. TARDY. I think there is some confusion.

Chairman GONZALEZ. Would you please identify yourself for the reporter.

Ms. TARDY. I am Judith Tardy, the Assistant Secretary for Administration at HUD. There is some confusion between the RIF in headquarters and the relocation, the colocation, reorganization in the field.

There was data available at that briefing—I explained I was there to deal with the headquarters RIF; that the reorganization in the field was being handled on a separate track, that everybody would be briefed on it before it was published in the Federal Register. And I understand that has been done, that there was data to back that up in terms of workload data, because we have work measurements in the field. We do not have that in Washington, D.C. And the numbers that relate to the RIF in Washington are based on the budget numbers that were submitted by the Assistant Secretaries.

We are RIFing in headquarters approximately—we are abolishing approximately 100 positions. The majority of those relate to offices that are over their internal budgets. My office is RIFing below its ceiling for economy purposes. The data that we had promised has been submitted.

As I said, I indicated, I talked briefly about the reorganization in the field and said that Dan Hughes would be handling that and would be briefing people separately on that.

Mr. HOYER. Our staff, at least, does not believe that your letter of September 23 submitted the relevant data.

Mr. Secretary, if I might proceed with Assistant Secretary Tardy. In a letter dated 2 weeks ago, and it may be this letter of September 3, 1982, I have just been handed, you indicated the headquarters RIF could have been avoided by means of attrition—had not the organizational managers failed to make maximum use of attrition to slim down staffs they knew to be over ceiling.

Is that an appropriate or correct characterization of what you have said or your position?

Ms. TARDY. We have had, as the Secretary said in his testimony, a very strict hiring freeze on in the Department since he has been the Secretary. As he indicated, we have put on less than 140 people nationwide. I personally am the person who has to approve exemptions to the freeze.

We kept that position on intentionally, disadvantaging some offices that were under their ceiling, so that we could minimize the impact. But last year we went into the fiscal year with most offices over their ceiling. We indicated to the people then, "You are over your ceiling, you have to be at your ceiling by September 30."

As the Secretary indicated in his testimony, this has never been done in headquarters in the past. Headquarters offices have been allowed to be over their individual ceilings and we disadvantaged the field for this.

We tell the field not to hire, they cannot hire; we do something, and we make them cover headquarters. What we are saying at this point is that headquarters has to be held to the same discipline that we hold the field.

We have also looked at some statistics. If you are concerned about the programs, we have seen over the last couple of years that the percentage of employees in headquarters has increased at the disadvantage of the field. And we are trying to bring those percentages back in line, so that we do not need and do not have a large policy staff in Washington which impacts our operational staff in the field.

Mr. HOYER. Secretary Tardy, I understand the rationalization. Is this an appropriate characterization of your opinion as stated in your letter 2 weeks ago, that with proper management and through proper use of attrition the RIF's would not have been necessary?

Ms. TARDY. Well, how can you predict attrition? We have had attrition. I don't know how you can have improper use of attrition. I am not sure what you are saying. Attrition is haphazard. We have tried to rely on that. The problem is that you don't know if everyone will leave, if you will get down to your ceilings. And attrition is something that occurs largely by chance. You cannot manage it. We have relied on attrition as much as possible, and we have also relied on our outplacement program.

Mr. HOYER. Is your attrition lower or higher than you expected?

Ms. TARDY. Our attrition has remained fairly constant throughout the year. It is slightly below traditional attrition rates several years ago.

Mr. HOYER. So would it be correct to say that the attrition level is as you expected it to be?

Ms. TARDY. I don't know that I had expected a level. I don't know what the future rate would be. As I say, we went back and did some analysis.

Mr. HOYER. If you did not expect the level, how can you plan for what the RIF ought to be. Do you not have a projected attrition rate on a monthly or annualized basis?

Ms. TARDY. We have a projected attrition rate, which is based on historical data. However, one cannot rely on such an attrition rate, because it does not project attrition by skill category.

Mr. HOYER. Well, Mr. Secretary, in your statement you say that the President said back in 1981, that:

> We at HUD delayed the RIF as long as we could and have been committed to reducing staff as much as possible through attrition.

I understand that statement. You are correct, you cannot manage attrition. Had you responded, however, to the projected attrition that you expected, it is my understanding that you believe this headquarters RIF could have been avoided or substantially minimized.

Now, is that incorrect? That was not your position?

Ms. TARDY. That is incorrect, because you cannot manage attrition. It is one element that we have relied on to minimize the RIF.

Now, I think what they may be confused with, I made a statement in the meeting in July. We have a voluntary outplacement program and some offices have not participated in the outplacement program.

Mr. HOYER. In the 5 minutes I have obviously already used up, we are not going to get at this issue.

Mr. Secretary, if I might, in your statement you indicate that certain phases of your Department's responsibilities are decreasing—lower housing reservations, reduced utilization of single-family insurance, and reduced funding levels.

Would it not be fair, however, Mr. Secretary, to observe that the housing market generally throughout the Nation, particularly in the last 18 months, has been a depressed market? Is the reduction-in-force and the cutback you are contemplating a recognition, admission, or plan that the housing market will continue to be depressed?

Secretary PIERCE. No, it is not a plan that the housing market will continue to be depressed. It simply means that we do not need as many people as we once needed to carry out our programs effectively.

Mr. HOYER. Would it not be correct, though, Mr. Secretary, particularly with respect to housing reservations, that whether it may be developers or individuals, housing is not being provided because of high interest rates or depressed markets generally or expectations generally? So if we assume at some point the economy does pick up, or if we assume interest rates do decline to an appropriate level, will we be unable to respond because of these RIF's that are currently planned?

Secretary PIERCE. No, we don't believe so. We think that we will have adequate personnel to handle that.

Mr. HOYER. Mr. Secretary, let me ask you a question specifically with respect to the RIF's. I have been told there are some people with more than 25 years' service to the Housing and Urban Development Department who are being RIF'd. Do you know whether that is a fact?

Secretary PIERCE. No, I do not know whether that is a fact. Maybe Ms. Tardy can answer that.

Ms. TARDY. I am sure as you are aware in the reduction-in-force you abolish positions and I know the issue keeps coming up about abolishing people. You abolish positions. And the people who encumber those positions then have all the rights that they are entitled to under the Civil Service. And if you have someone who is in a position that you determine you no longer need this position, if he has 25 years of service, he will be accorded all of the rights that he has under Civil Service. And in all likelihood that person will

not be the person who leaves. If he had 25 years' service, if he is a veteran, he will still be in the Department.

Mr. HOYER. He will simply bump somebody else?

Ms. TARDY. Probably. Or just move into another position, yes.

Mr. HOYER. Have you planned for that?

Ms. TARDY. Well, that is a process that you go through, yes, sir, in terms of the reduction-in-force. That is what we are doing right now.

As you are aware, we have given out general notices in headquarters and we are going through and seeing what actually happens, and what rights, what positions people are entitled to under the reduction-in-force. Now, all of that will be public, people have appeal right to any of the decisions that we make.

Mr. HOYER. What is the total cost projected for the RIF?

Ms. TARDY. The average RIF cost per employee is $9,500. Now, we don't know yet what ours will be, because you have to wait until you actually see who will be the person that will be released or separated, and how long that person has worked in the Government, to determine his service pay, how much annual leave he has, for instance. So we don't know if our costs will be higher or lower than the $9,500, which is the figure that we are working with right now.

Mr. HOYER. What is your total projection, however, realizing you are going to have to wait until it actually happens before you have bottom line figures. Presumably, for planning and budget purposes, you have made a projection.

What is that figure?

Ms. TARDY. As I said, we are talking about approximately 100 positions here in headquarters.

Mr. HOYER. Would 113 be correct?

Ms. TARDY. No. It is 101; I believe is what it is.

Mr. HOYER. And what is that bottom line?

Ms. TARDY. It would be 101 times $9,500 at this point. Then you have to also factor our average salary cost, which is $30,000, plus our other costs, such as rent, and telephones, to come out with what the real savings would be.

Mr. HOYER. You are saying $1 million less than whatever remains of the salary?

Ms. TARDY. Yes.

Mr. HOYER. One last question, Mr. Chairman, if I can, with the indulgence of the committee. I have many more, but my time is up.

Mr. Secretary, I understand you want to strengthen the role of the Regional Administrator, which is a schedule C appointment.

Are we trying to strengthen the political pressure on HUD career employees to succumb to the Reagan philosophy of cutting out all regulations and nonteam players at the expense of the worthwhile housing community development programs?

Now, that question was written for me and it is not particularly artfully stated. However, the thrust of the question is this, by taking the action you suggest, are we not making more political the decisionmaking process at HUD?

Secretary PIERCE. I wouldn't like to put it that way.

I think this is good management. This is just sheerly good management. You want the people under you who carry out your poli-

cies to be—to really be your people, to be the people who you know can do the job, and who will follow through on your policies, and will get the job done the way you think it should be done. And that is what you would do in any company, and that is what you should do in government, and that is just a process of good management.

Mr. HOYER. Thank you, Mr. Secretary.

Chairman GONZALEZ. Thank you, Mr. Hoyer.

Mr. Secretary, we have about some 8 minutes before you will have been here for 2 hours. In order to avoid submitting questions in writing, I am going to take the liberty of asking one now, because it is pertinent to one of the main issues before us in this hearing.

On May 26, 1982, this committee reported out a joint resolution of disapproval of regulations implementing the increase in tenant rent-to-income ratios. The effect of the resolution of disapproval should have been to delay the implementation of the rule for 90 days until August 24. Instead of abiding by the committee's action, you decided to defy this and announced that the regulations would become effective on August 12.

Given the fact that, one, HUD was unable to distribute the forms necessary to calculate tenant rent contribution until late August; two, HUD issued a July 30 memo to the field permitting owners to wait until the next income recertification date to raise rents even if the lease expired earlier; and third, the regulations result in tenants with the same income and living side by side paying different rents.

The question is, What benefits accrue to the Department during the 24-day period between August 1 and August 24, when you ignored the resolution of disapproval passed by this committee?

Secretary PIERCE. Well, I really didn't think of it in those terms. The way I thought of it was that basically we knew the committee, the majority of the committee, was against the statute—not against our implementation procedure. We have an obligation to enforce that statute as it was passed by the entire Congress, and we set about doing it the best way we saw fit, and we think we did the right thing.

As I stated in my paper, any attempt to thwart the action that we took would amount to a legislative veto, which we think is unconstitutional and the Supreme Court is there for testing.

Chairman GONZALEZ. Of course, certainly it wasn't my intent to get into the legal or constitutional ramifications. But even that—there is a wide difference between disapproval and a veto, or a one-House veto as it has been described. This certainly wasn't a veto. We were asking for a delay in view of the fact that, such things as those I mentioned, and to which you have not responded, have resulted in discrepancy.

Let me point out that motivation wasn't again one that was born out of the fact that we disliked the Gramm-Latta results of last year. It was that we had administrators throughout the country reporting this conflict, this incongruous situation of tenants, and they having to go to explain to tenants, living side by side with the same income, that they were paying differences in rent. And actually, we were well aware of the fact that no matter if the resolu-

tion had been respected, that it had governance for no more than 90 days.

I did want to clarify the fact that there wasn't any motivation about the fact that we disliked the results of Gramm-Latta.

Secretary PIERCE. We just disagree. We think the legislative history will prove it if necessary, if we have to go to court, OK.

Chairman GONZALEZ. Well, that answers the interpretations as to legality and constitutionality. But it does not explain your assumption as to the motivation of the majority of the committee. And the fact that we were asking for a delay until—a difference of time—actually 24 days.

Anyway, thank you very much, Mr. Secretary. I don't believe that any of the absent members have indicated that they will submit questions for the record.

Mr. HOYER. Mr. Chairman.

Chairman GONZALEZ. I have been informed Mr. Lundine asks unanimous consent to submit questions for the record.

Secretary PIERCE. Yes; anybody who wants to submit any questions certainly can as far as I am concerned.

Chairman GONZALEZ. Mr. Hoyer, did you seek recognition?

Mr. HOYER. Mr. Chairman, I was simply going to ask unanimous consent that each member of the subcommittee be given time to submit written questions to the Secretary.

Chairman GONZALEZ. Without objection, so ordered.

The subcommittee stands adjourned until further call of the Chair.

[Whereupon, at 11 a.m., the subcommittee adjourned, subject to call of the Chair.]

[The following additional questions were submitted to Secretary Pierce by Chairman Gonzalez, and appear with the responses of the Secretary:]

Question 1. Mr. Secretary, I understand that the Department is in the process of developing regulations that would eliminate the minimum property standards applicable to FHA-insured homes and rely on a conflicting set of over 1,000 local codes.

In addition, I understand the proposal would result in reducing the energy conserving standards that apply to insured buildings. Reducing the energy conserving standards by relying on the ASHRAE standards is contrary to the requirements of section 526 of the National Housing Act and will be a step backward that I, consumers, energy experts, and many members of the building industry oppose.

Would you comment on the impact of referencing less strict energy standards than presently required? In addition, why doesn't it make more sense to rely on a nationally recognized building code, such as CABO, as an option to the minimum property standards as recommended by the National Institute of Building Sciences instead of relying on a morass of 1,000 separate local building codes?

Answer. Although we are developing a rule under which the MPS will defer to local codes it is inaccurate to imply that by this step FHA insured homes will rely on a conflicting set of over 1000 local codes. Even now these conflicting codes are applicable to all FHA homes which must conform to them. By phasing out the MPS we are merely removing an extra layer of regulations. It does make sense to me to have a single recognized code such as CABO instead of a large number of conflicting codes, but there is no mechanism for us to bring this about. Even if we adopted CABO in place of the MPS, HUD homes would still have to meet the multiplicity of codes. We have no authority to make either the MPS or CABO preemptive.

I should point out that the contemplated rule is a proposed rule and will be subject to public comment prior to its implementation as a final rule.

As for energy standards, we shall rely heavily on the Model Code for Energy Conservation which imposes U values roughly the equivalent of those in the MPS. Thus, there is no significant lowering of energy standards contemplated.

Question 1. Mr. Secretary, I share with Mr. Vento the concern that the submission of proposals for funding from the Solar Energy Bank be extended until November 15, 1982. In addition, I am concerned that: First, cities have been excluded from an opportunity to apply for funds, when many cities have more effective energy conservation programs than States; second, the statute has been violated by the failure of the Bank Board to schedule meetings of the Solar and Energy Conservation Advisory Committees; and third, the Department has claimed that regulations cannot be issued prior to February because of the section 7(o) congressional review process.

Would you be willing to work with me to resolve these problems?

Answer. At a meeting of the Board on October 18, the Board did not agree to accept proposals directly from cities regarding their participation in the Bank program. The Board had considered dealing directly with cities as one option prior to issuance of the Notice of Funding Availability on August 27. Instead the Board approved a Notice soliciting proposals only from States, in order to simplify the administration of the program by the Bank and to take advantage of existing energy audit ng and assistance programs at the State level.

The Board was aware that many cities have been leaders in developing innovative conservation programs and that the Bank statute permits local governmental entities, as well as States, to serve as lenders. We expect that, as some States already have indicated, State proposals will recognize and make use of existing local governmental programs and resources.

On October 2, Dr. Francis, Comptroller of the Bank, advised Governor Matheson, Chairman of the National Governors Association, of the Bank's position regarding the participation of cities and local governments in the Bank's program (copy attached).

As to the scheduling of meeting of the Solar and Energy Conservation Advisory Committees, the HUD General Counsel has stated that the provision of the Act which establishes the Advisory Committees, Section 3606, contains no such requirement. In view of legislative history, Congress' failure to include in the statute a requirement that advisory committees be convened with any prescribed frequency clearly indicates that Congress intended to impose no such requirement.

In order to further expedite the regulations process, the Bank will seek an early informal review of the incomplete draft regulations by OMB prior to formal submission of the complete regulations pursuant to Executive Order 12291 and will make every effort to obtain final approval of the regulations by the Bank's Board of Directors and OMB in time to permit submission to the House and Senate Banking Committees pursuant to Section 7(o) of the Department of Housing and Urban Development Act when Congress returns for its post-election session. We anticipate that the session will be long enough to allow completion of the fifteen-day publication deferral period without waiver, and we expect to request waiver of the thirty-session day effectiveness deferral period in order that the regulations may become effective prior to late February or March 1983. The Board approved this schedule for the regulations at its recent meeting.

MICROFILMED FROM
BEST AVAILABLE COPY

October 21, 1982

Honorable Scott M. Matheson
Chairman
National Governors Association
444 North Capitol Street, NW, #250
Washington, DC 20001

Dear Governor Matheson:

The enclosed colloquy between Senators Garn and Huddleston from the Congressional Record of September 24, 1982, as well as expressions of interest from members of the House of Representatives, reflect concern about the role of cities and local governments in the work of the Solar Energy and Energy Conservation Bank. In the Notice of Funding Availability (NOFA) published in the Federal Register on August 27, 1982, the Bank invited States to submit proposals so it might select certain States to participate in providing financial assistance to their citizens for solar energy and energy conservation measures.

The Bank wants to be responsive to recent communications concerning the desirability of inviting cities and local governments to also submit proposals. The Bank realizes that some cities and local governments, in addition to States, operate energy-related assistance programs. In limiting eligible applicants to the NOFA to States, the Bank did not intend to exclude cities and local governments from participation in the program. Cities and local governments should be considered as available resources for participation in the delivery of financial assistance contemplated in this program, and States should give consideration to including them when designing their proposals.

We are providing this information to you to help clarify the Bank's views regarding the eligibility of cities and local governments to participate in our program. Please let me know if you desire any further information.

Sincerely,

Richard H. Francis
Comptroller

Enclosure
cc:
U.S. Conference of Mayors
National League of Cities
Senator Garn
Senator Huddleston

MICROFILMED FROM
BEST AVAILABLE COPY

Question 3. Mr. Secretary, last year when the community development block grant was amended to permit the States to administer the small cities program, concern was expressed that some State would allocate funds on primarily political considerations and not on the basis of need.

I understand that the Commonwealth of Puerto Rico has developed a proposal that favors "municipios" controlled by the Governor's party to the detriment of municipios controlled by the opposition party. More specifically, I understand Puerto Rico is proposing to give the 21 municipios controlled by the NPP, the Governor's party, an average of $418,000 each while the 46 municipios controlled by the PDP, the opposition party, will only receive an average of $306,000 each. Clearly this kind of distribution bias appears to violate the intent of the statute that funds be allocated on the basis of need.

What steps has your Department taken to assure that Puerto Rico and other States do not implement discriminatory distribution systems for CDBG small cities funds?

Answer. Under title I of the Housing and Community Development Act of 1974, as amended by the Omnibus Budget Reconciliation Act of 1981, States are free to develop procedures for disbursing funds consistent with State and local priorities. The statute itself provides no specific direction as to how funds are to be distributed, other than to give maximum feasible priority to activities which will benefit low- and moderate-income families or aid in the prevention of elimination of slums or blight; the projected use of funds may also include activities which the State certifies are designed to meet certain community development needs having a particular urgency. Based on the statement submitted by the Commonwealth of Puerto Rico, we have no reason to believe this statutory test will not be met.

As to the actual system developed by the Commonwealth, the final statement states the distribution system includes, as one of the criterion, "participation of municipios in State-assigned funds for community development activities." Thus, the amount of community development block grant funds distributed to a municipio is based to some extent on the amount of funds that municipio received through the Commonwealth. The Commonwealth indicated that it had adopted this criterion to "ascertain an equitable distribution of funds during this fiscal year." As pointed out by the Senate Committee, "whether funds are distributed by formula or competitive process, or to all or only some of the eligible small cities is clearly within the purview of the State, abetted by the fruits of consultation with local officials."

Under the amendments to title I adopted in 1981, States are not required to identify needs in the manner required for applications under the law before it was amended. The State is only required to identify its objectives, and the method of distribution. At this time, the distribution system appears to be consistent with the law, the Commonwealth has made all the requisite certifications, and we know of no substantial evidence challenging any of the certifications including certifications that it has consulted with local officials and the projected use of funds has been designed to give maximum feasible priority to activities to benefit low- and moderate-income families and to prevent or eliminate slums or blight. Therefore, the Department finds no reason to intervene in the Commonwealth's decision.

Any reallocation of resources designed to address needs for which the demand far exceeds the resource will, of course, result in certain inequities, depending on one's point of view. Each and every State participating in the State block grant program this past fiscal year was forced to make similarly difficult choices in designing its system—certain projects or classes of projects, or certain kinds of activities have to be excluded. Consistent with the intent of the Congress in enacting this legislation, HUD does not intend to interpose its decisions for those of the States in making these choices.

Question 4. Mr. Secretary, would you please comment on various proposals circulating within the administration that would have the Department contract out to the private sector a number of functions that the Department is carrying out with HUD personnel such as property disposition, which is already under some political dark clouds because of alleged favoritism in selling off projects to large campaign contributors.

Is not the RIF just an opportunity to implement turning over HUD to the private sector?

Answer. No, the RIF is being conducted for the reasons I have previously discussed.

With regard to contracting out, Office of Management and Budget (OMB) has issued policy in its Circular A-76 that specifies how agencies should determine whether certain activities should be performed in-house or by a contractor. HUD, like other Federal agencies, must comply with these requirements. The A-76 proc-

MICROFILMED FRO
BEST AVAILABLE

ess, in effect, provides for the development of independent cost estimates for the in-house performance and contractor performance of a function, based on identical work statements. The estimates must be validated, and it must be established that contracting out the function is less expensive than performing it in-house.

Question 5. On March 25, 1982, you approved the prepayment of a section 202 loan covering the Concord Pasadena elderly project which resulted in tenants being faced with an increase in rent for a one-bedroom apartment from $190 to $425. I am very concerned that your approval of this prepayment signals the beginning of an ominous trend.

In creating the section 202 program it was never the intention to provide short-term, 3-percent loans to permit developers to build elderly projects and then to permit developers to gain lucrative windfalls by prepaying the mortgage when market conditions change and by converting the projects to condominiums or luxury rentals. Given the shortage of decent and affordable rental housing for many elderly families in this country, Congress created the section 202 program to stimulate the construction of housing that would remain available for the intended beneficiaries for at least the original term of the mortgage, which could be as long as 50 years.

I would like your assurances right now that if a prepayment policy is developed by the Department that it be developed in full consultation with the appropriate authorizing committees and that at a minimum the policy state that prepayments be accepted only when there is no need for the units for the period covered by the remaining term of the mortgage or when the project suffers from serious financial difficulties and there is no other cure for the problem.

(a) Was the decision to accept the prepayment of the Concord Pasadena the first time that HUD has decided to accept prepayment of a section 202 loan?

Answer. No. The Department permitted prepayment on the Rochford Terrace project, sponsored by the Kundic Center, Inc., in Detroit, Mich., as of August 1, 1973.

(b) If so, was there a former HUD policy governing prepayments of section 202 projects? What was that policy?

Answer. The Department did not have a formally articulated policy with respect to prepayment of "old" section 202 projects; i.e., projects funded under section 202 of the Housing Act of 1959 prior to its recodification as part of the Housing and Community Development Act of 1974. The only statement of policy as such is gleaned from the loan documents which permitted prepayment only from excess project earnings remaining in the Revenue Fund at the end of a year. However, it was not intended that *all* loan prepayments would be prohibited, but only those which were not in the best interest of the government and were inconsistent with continued use as rental housing for the elderly.

(c) Has that policy been changed? Why?

Answer. The general policy has not been changed. Where acceptance of prepayment affords economic advantages to the Federal Government, still protects the tenants of that section 202 project and remains a housing resource we believe prepayment may be permitted. The Department believes its mission is to assist families and not projects. We are generally of the view that those most in need of rental assistance are better served through the current section 8 program for existing housing, or some other form of housing voucher, rather than by subsidizing projects and project owners.

(d) What are the specific standards you will use to evaluate prepayment requests?

Answer. The underlying standards to be used in evaluating prepayment requests will be whether the prepayment is in the best interest of the Government and that it assure that the rights of current tenants and that the housing remains a resource. Although no final decision has been made we fully expect the criteria for evaluating request for prepayment to include consideration of the physical and financial condition of the project, need for continued use of the project as 202 housing, availability of replacement housing at affordable rents, and that appropriate arrangements are made for life tenancy, or, at the tenants choice, relocation, including payment of moving expenses, if required.

(e) What were your specific reasons for approving prepayment of the Concord Pasadena?

Answer. The decision to approve prepayment was made, in part, because the owners represented to us that their motive was to be able to operate the project for the primary benefit of members of the sponsoring organizations congregation without being bound to HUD's rental regulations. They also guaranteed life tenancy to current occupants. Other factors which influenced the decision include the opportunity to relieve the government of its obligation to underwrite, at substantial cost to the government, a low interest rate loan to the owners. The government received

MICROFILMED FROM BEST AVAILABLE COPY

payment of $1,727,000 for a 3-percent mortgage with a present value of $556,700 for a net return to the Treasury of almost $1.2 million.

(f) Did you determine whether there was a need for the project's low-rent units in the Pasadena area?

Answer. The Department did not make a specific finding of need for the project's low-rent units in the Pasadena area. Permitting prepayment of Concord was not intended to remove 150 units of low-rent housing from the inventory of housing in Pasadena. We have provided 150 units of section 8 existing housing subsidy which adds housing assistance for 150 lower income families in the Pasadena area.

(g) Did the city of Pasadena indicate that there was no longer a need for low-cost elderly units in the area?

Answer. Since there was no consultation with the city of Pasadena before accepting prepayment there was no indication from the city of Pasadena as to need for low-cost elderly units in the area.

(h) Did the HUD Los Angeles area office indicate that there was no longer a need for the project?

Answer. There was no consultation with the Los Angeles Area Office before the decision to accept prepayment was made other than to ascertain the tenant subsidies on the project.

(i) Did you ever give notice to the project's tenants and give them an opportunity to comment on the prepayment proposal?

Answer. The tenants were not notified by HUD of the owners request for prepayment.

(j) Has HUD issued a notice that section 202 loan funds for new projects are available in the Los Angeles area?

Answer. A notice was published by the Los Angeles Area Office inviting proposals from section 202 sponsors for projects to be financed using fiscal year 1982 funds.

(k) How much is available?

Answer. 465 202 units were made available for the Los Angeles area.

(l) Is the Concord Pasadena classified as a troubled project in serious financial difficulty?

Answer. The Concord project was not classified as financially troubled. According to our records the Concord loan was current at the time of prepayment.

(m) Did you consider the prospect of a $1.7 million return to HUD on the mortgage as the primary reason for accepting the prepayment?

Answer. The prospect of receiving full payment of $1,727,000 for a loan with a present value of $556,700 was a consideration but not the primary consideration. Our primary consideration was that notwithstanding the prepayment the owners had committed themselves to providing the current occupants the right to remain in residence until they voluntarily moved or died.

(n) Was termination of the rent supplement contract a major consideration in your decision?

If so, why?

Answer. Termination of the rent supplement contract was not a major consideration in the decision to accept prepayment.

Although cancellation of the rent supplement contract was not a major consideration certainly it was one of the elements considered in making the ultimate decision. In addition we had been erroneously advised by the Los Angeles Area Office that 90 tenants received section 8 loan management set-aside subsidy.

(o) But isn't HUD having to make additional section subsidies available to the project that will have a higher subsidy cost per unit due to the lifting of the section 202 rent restriction as a result of the prepayment?

Answer. Yes. However, the total cost of the section 8 is less than the rent supplement. As already mentioned, when we made the deal, we were acting on information that the remaining 90 units were already receiving section 8 assistance.

(p) What is the net savings to HUD from the provision of section 8 for 5 years compared to the recapture of rent supplement?

Answer. The net savings to HUD is $450,500 as explained in greater detail in the cost comparison analysis, attached.

MICROFILMED FROM
BEST AVAILABLE COPY

CONCORD PASADENA

COST COMPARISON ANALYSIS

The following is an analysis of the fiscal soundness of HUD's acceptance of the prepayment of the Section 202 loan on Concord Pasadena and an analysis of the additional costs of the subsidy resulting in the transaction.

Background. The project was financed under HUD's Section 202 Direct Loan Program with a 3% interest loan of approximately $2 million for a period of 50 years. The project consists of 150 units; 60 of which were subsidized through the Rent Supplement program. The funds required to prepay the loan were received by HUD on March 25, 1982. At that time, 36 years were remaining on the original loan. Since the Rent Supplement contract terminated with the prepayment of the loan, instructions on converting all the tenants to the Section 8 Existing Housing Program were subsequently forwarded to the Los Angeles Area Office on May 25, 1982.

A. Savings Realized in the Prepayment of the Loan. Assuming the government's cost of borrowing money was 13.8% on the date of prepayment; the present value of the $1,727,000 note at 3% is calculated at $565,000. Since HUD received full payment of the outstanding balance, the net savings realized totals $1,162,000.

$1,727,000	prepayment at par
- $565,000	present value of loan
$1,162,000	net savings to HUD

B. Subsidy Analysis. While the prepayment of the loan automatically cancelled the 60 units of Rent Supplement assistance, HUD agreed to provide Section 8 Existing Housing Certificates to all 150 of the present tenants with the caveat that the owner would permit the tenants to remain in the project with their Certificates at the Fair Market Rent level.

An analysis as to whether the present value of the additional Section 8 assistance is greater than the savings realized on the prepayment is shown below. This analysis is based on the assumption that our actual outlays under both the Rent Supplement and Section 8 Existing Housing Program are substantially identical since the formula for calculating rents under both programs are similar. Based on available information, we estimated an outlay assumption of $99 per unit/per month with a 5% annual increase. Since the tenant's share of the rent is unknown, we cannot pinpoint the exact contract and budget authority.

MICROFILMED FROM
BEST AVAILABLE COPY

1. Rent Supplement. Annual usage for 60 units of Rent Supplement totals $71,304. This figure multiplied by the remaining term of the loan (36 years) shows budget authority of approximately $2,566,944. The present value of these 60 units of Rent Supplement based on the government's borrowing costs of 13.8% totals $784,000.

$ 71,304	annual Rent Supplement usage
x 36	remaining years of loan
$2,566,944	budget authority

Present value of 60 units of Rent Supplement based on 13.8% borrowing cost = $784,000.

2. Section 8 Existing Housing Program. Annual contract authority for up to 150 units of Section 8 Existing Housing totals $588,600. This figure multiplied by the term of the Section 8 contract (15 years) shows budget authority in the amount of $8.829 million. The present value of the 150 units of Section 8 based on our borrowing costs of 13.8% equals $1,495,500.

$588,600	annual contract authority
x 15 yrs.	term of contract
$8.829 million	

Present value of 150 units of Section 8 based on 13.8% borrowing cost = $1,495,500.

Conclusion. The difference between the present value of subsidizing 150 units of Section 8 Existing at $1,495,500 as opposed to 60 units of Rent Supplement for 36 years at $784,000 equals $711,500. Comparison of this subsidy difference of $711,500 with the net savings realized from the prepayment of the loan ($1,162,000), shows that the Department's acceptance of the prepayment results in a savings of $450,500.

$1,495,500	present value of Section 8 assistance at 150 units for 15 years
- 784,000	present value of 60 units of Rent Supplement assistance through remaining term
$ 711,500	subsidy difference
$1,162,000	net savings realized from prepayment of loan
- 711,500	subsidy difference
$ 450,500	savings to government through prepayment of loan

MICROFILMED FROM
BEST AVAILABLE COPY

(q) Does this mean that HUD will favor prepayment requests from section 202 projects that have rent supplements?

Answer. As we have previously indicated, each request for prepayment will have to be evaluated and judged on its individual merits, not merely on whether it is more cost effective to provide section 8 rather then rent supplement assistance.

As you know, Congress has approved the conversion of all insured rent supplement units to section 8.

(r) Under the remaining term of the section 202 loan we could expect that the rental units in the Pasadena Concord would be available to elderly and handicapped residents for 34 years. What is the proposal HUD has tried to negotiate with the owners after the loan was prepaid and how will this benefit the 500 elderly people who are on the waiting list to occupy the project?

Answer. The basic terms of our agreement with the nonprofit sponsor to accept prepayment of the section 202 loan dealt with assuring that the current residents could remain in occupancy for so long as they chose, at rent contributions that would not exceed the current statutory tenant contribution requirement for section 8; that the Department would provide, for eligible tenants, up to 150 section 8 certificates at the currently published fair market rents for the section 8 existing program; that any difference between the amount contributed by the tenant and the section 8 subsidy and the actual amount of rent charged by the owner would have to be absorbed by the owners. In other words, the Department insisted that the maximum rent for a unit occupied by a current tenant who was eligible under the section 8 program could not exceed the section 8 FMR. It was further understood that tenants receiving Section 8 certificates were free to leave the project, taking the Section 8 certificate with them to other eligible housing. The 150 certificates made available for this purpose would eventually revert to the Pasadena Housing Authority and thus add to their resources available for low-income tenants.

Any direct benefit to elderly individuals on the project's waiting list would only occur if some of the section 8 certificates were eventually relinquished to the Housing Authority and were available for reallocation to other individuals. However, the Department believes its principal obligation is to the occupants of the structure. We do not believe that the size of a waiting list is particularly definitive of the actual demand in any given market area, particularly among the elderly, because people interested in occupying such housing are known to place themselves on waiting lists at more than one such structure.

(s) In an appearance on July 22 before the House Aging Committee's Subcommittee on Housing and Consumer Interest, Assistant Secretary Abrams said that as a result of an administrative error in HUD, the existing note on the project was canceled and the mortgage satisfied of record before the owners signed an agreement guaranteeing existing tenants life tenancy until such time as they move voluntarily or die. I understand the owner subsequently objected very strenuously to entering into any such agreement.

Please explain in detail how such a serious administrative error could occur and the steps you have taken to insure that such errors are not repeated in the future. Has the owner now entered into an agreement with HUD? If so, please provide a copy of the agreement. If not, what steps is HUD taking to insure that the present and future tenants are protected?

Answer. The owners provided the Department with their written statement of intent to provide the current tenants life tenancy which we considered binding on them since it was in the form of a resolution duly adopted by unanimous vote of the governing body. Our letter of March 23 accepting the offer of prepayment established the terms of prepayment including execution of an agreement in a form acceptable to HUD. We did not anticipate resistance by the owners to compliance with terms offered by them; i.e., life tenancy for current occupants. We expected to execute the agreement when the section 8 assistance contract was signed.

To assure that there will not be a repetition of the administrative error in future case the Deparment is proposing a formalized procedure for handling prepayment of HUD loans.

HUD and the owners have been enjoined by the Court, in the action styled *Gordon, et al. v. HUD, Pierce, et al.* from executing the agreement or "taking any further action to approve of, complete, or implement" the prepayment.

(t) Are you aware of a memorandum from James Schoenberger, Associate Deputy Assistant Secretary for Multifamily Housing Programs, to Phil Abrams, which discusses the subject of prepayments of all section 202 loans?

Answer. The memorandum you refer to here was from Michael G. Karem, Deputy Assistant Secretary for Multifamily Housing Programs and not James Schoenberger and I am aware of it.

MICROFILMED FROM
BEST AVAILABLE COPY

(a) Are you aware of the recommendations of that memorandum that prepayments be accepted only when there is no need for the units or when the project suffers from serious financial deterioration and there is no other cure?

Answer. Yes. Recommendations included in that memorandum as well as other suggestions by Housing staff are being considered in the development of an overall policy to be applied to prepayment of any HUD multifamily housing loans.

(c) Did you evaluate the prepayment of the Concord Passadena in light of those standards? If not, why? If so, please indicate how approval of the prepayment was consistent with the suggested standards.

Answer. No. The Karem memo was developed after the decision to accept prepayment and was, in fact, in response to recognition that if there were to be additional prepayments the Department should establish standards and criteria upon which to evaluate requests for prepayment.

(a) Have other written policy recommendations on this subject been developed by other HUD staff?

Answer. Housing staff has made some preliminary recommendations which are currently under review.

Question 6. Mr. Secretary, how did you establish the individual ceiling numbers for each program area, especially with regard to CPD, Housing and the 10 Regional Offices?

Answer. As I stated in my testimony, I arrived at staffing ceilings for Headquarters offices through discussions with Assistant Secretaries. These ceilings represent our best judgment of the staff levels needed to efficiently deliver our programs. In the regions, we rely largely on work measurement standards, which are applied against anticipated workload, to allocate staff.

Question 7. Mr. Secretary, in the absence of more detailed information, it seems as though you are merely politically targeting and eliminating individuals by these tailor-made job abolishment categories. How do you account for the extremely large number of individual competitive levels listed for abolishment in the retention register?

Answer. There is no truth to the allegation that jobs were targeted for political reasons. Positions were chosen for abolishment by the respective Assistant Secretaries based on workload considerations, program changes, and program priorities.

The number of competitive levels in use, given the nature of our work force, is not unusual. Our competitive levels are comparable with other government organizations of similar size and similar competitive area. Employees have the right to challenge their competitive level in connection with a RIF appeal before the Merit Systems Protection Board.

Question 8. Mr. Secretary, it was reported to this Subcommittee that HUD is already 300 slots below its 14,300 level set for Fiscal Year 1982 due to attrition. Please provide the Subcommittee with an explanation of why the natural attrition rates will not meet the year-end staffing goals which were established and authorized by Congress?

Answer. As I said in my testimony, several offices in Headquarters have not been able to arrive at their ceilings by attrition. This is despite our hiring freeze, our aggressive outplacement program, and the reassignment of HUD employees where possible. It is now necessary to institute RIF procedures in order to reduce these offices' personnel to their current ceiling levels and to allow other offices who have different skill requirements to fill positions that need to be filled in order to effectively carry out Departmental mandates.

Question 9. Mr. Secretary, Ms. Tardy has testified that attrition rates are not predictable for either Field Offices or Headquarters. This seems contradictory, especially given the fact that Mr. Daniel M. Hughes, Deputy Under Secretary for Field Coordination in a HUD Abstract Secretarial Correspondence regarding Regional/Area Office consolidation stated that, "Attrition since October 1, 1981, has averaged 0.8 percent per month for the Field." In fact, his estimates and goals of reorganization are predicted on such. Mr. Secretary, how do you account for this obvious contradiction?

Answer. Because attrition can be affected by a whole host of factors, it is very difficult to predict future attrition. All you can do is project it based on historical data. In addition, historical attrition rates cannot predict attrition by skill category. Thus, one cannot rely on that attrition rate to make competent management decisions that will effectively carry out HUD's programs.

Question 10. Mr. Secretary, in responding to an earlier question, you stated that you were not aware that the Department had promised to provide the subcommittee with the work measurement and organization and management studies that Assistant Secretary Tardy had said were undertaken to support the staff reductions and

MICROFILMED FROM
BEST AVAILABLE COPY

field restructuring that you propose. This strikes the subcommittee as somewhat incredulous, since by written correspondence and phone conversations since July 9, 1982, these materials were repeatedly discussed with and requested of the Department. In fact, one of the principal reasons for requesting your appearance before the subcommittee was because the information had not been provided though repeatedly promised and requested. Will you, now, provide the subcommittee with the information that it requested of the Department?

Answer. As Mrs. Tardy stated at the hearing, there was apparently some confusion between the RIF in Headquarters and the reorganization in the field. At the July 9 meeting, Mrs. Tardy stated that she was there to discuss the Headquarters RIF, and that Dan Hughes would provide the subcommittee with the study performed on the field reorganization. I understand that Mr. Hughes has provided the study to the subcommittee. Mrs. Tardy sent a letter on September 3 to the subcommittee that described the process used to allocate Headquarters ceilings. As Mrs. Tardy stated in her letter, we do not allocate Headquarters staff through work measurement, as we do the field. The Headquarters ceilings represent the best judgment of me and the Assistant Secretaries as to staff needed in Headquarters to deliver our programs most efficiently.

Question 11. Mr. Secretary, by carrying out this RIF, aren't you creating a diluted and inefficient HUD staff to run the vitally needed housing and community development programs which the Congress has established? In fact, won't this RIF cripple and virtually eliminate the housing and community development programs which are vitally needed?

Answer. No.

Question 12. Mr. Secretary, in strengthening the role of the Regional Administrator and other top political "Schedule C" employees, are you not in fact politicizing the Department at the expense of HUD career employees?

Answer. No, for the reasons I have already stated in my testimony.

Question 13. Mr. Secretary, when do you intend to issue the specific RIF notices?

Answer. On September 27, we began to issue specific RIF notices, effective September 29.

Question 14. Mr. Secretary, please provide us with a breakdown by race and gender of those who are sent specific RIF notices.

Answer. As of September 29, we have distributed 217 RIF notices. 59 are reassignments, 63 are downgrades, and 95 are separations. Below is a breakdown of these actions.

	Reassignments	Downgrades	Separations
Black males	9	11	22
Black females	23	20	21
White males	14	13	19
White females	9	16	26
Hispanic males	2	2	2
Hispanic females	2	1	4
American Indian females	0	0	1
Total	59	63	95

Below is a breakdown of the composition of the Headquarters work force, before and after these actions.

Employee groups	Before RIF		After RIF	
	Number	Percent	Number	Percent
Total headquarters employees	4,075	100	3,980	100
Black males	412	10.1	390	9.8
Black females	1,231	30.2	1,210	30.4
Total blacks	1,643	40.3	1,600	40.2
White males	1,543	37.9	1,524	38.3
White females	747	18.3	721	18.1
Total whites	2,290	56.2	2,245	56.4

Employee group	Before RIF		After RIF	
	Number	Percent	Number	Percent
Hispanic males	38	9	36	9
Hispanic females	41	10	37	9
Total Hispanics	79	19	73	18
Other minority males	40	10	40	10
Other minority females	23	6	22	6
Total other minorities	63	16	62	16

During the 30 days from the time that a specific notice is given to the 217 people mentioned above, there will undoubtedly be retirements, resignations and other attrition that will impact the current retention registers. As these actions occur, management will review the lists and make the necessary adjustments. It has already been decided that those secretarial and clerk-typist employees who are planned to be separated on October 31, 1982, will be given temporary appointments pending their placement in secretarial and clerk-typist jobs as turnovers occur. Of the separated employees, 29 are in this category, and 22 of these are from minority groups.

Question 15. Mr. Secretary, please provide us with a list of vacant positions in HUD's Headquarters Office as of September 21, 1982.

Answer. Aside from Senior Executive Service positions and positions in the Office of Inspector General (none of which are affected by the RIF), there is no list of vacancies *per se* in Washington. This is because a strict hiring freeze will remain in effect after the RIF, and all career jobs to be filed from outside HUD will have to be approved by the Assistant Secretary for Administration on a case-by-case basis (except in the Office of Inspector General). In addition, as I already testified, in filling jobs, we must give RIFed employees priority under OPM regulations.

Question 16. Mr. Secretary, have you identified any employees, whose jobs will be abolished in the RIF, to qualify for existing vacant positions within a 90-day period?

Answer. We have not identified any employees, whose jobs will be abolished in the RIF, to qualify for existing vacant positions within a 90-day period. As vacancies occur, we will comply with OPM regulations in referring qualified employees affected by the RIF for consideration. And as I previously stated, we are offering temporary appointments to typists who are being separated due to RIF, and we will be referring them for future permanent clerical vacancies.

Question 17. (a) Mr. Secretary, your estimated cost is $9,560.00 per person to conduct this RIF. Please itemize this cost per person broken down by the following categories: Pro rata cost per job abolished of establishing RIF mechanisms; severance pay based on actual length of service and grade level of incumbents in abolished jobs; and cost of Federal unemployment payments.

Answer. The $9,560 cost was an estimated cost based on some past RIF experience. Below is a breakdown of the actual RIF costs of the initial 217 RIF notices, effective on September 29. Of course, RIF notices may be amended during the RIF notice period, which would change the costs listed below. After the RIF is completed, we will be able to provide more exact data.

RIF cost analysis

I. Employee cost:	
A. Overpayment—grade/pay retention	$375,000
B. Lump sum leave	52,000
C. Severance pay	132,000
D. Unemployment compensation	220,000
E. Total cost	779,000
II. Cost per abolished position	8,200
III. First year salary savings	2,139,000
IV. First year net savings:	
A. Net savings	1,360,000
B. Net savings per abolished position	14,316

MICROFILMED FROM
BEST AVAILABLE COPY

(b) What is the cost of retraining minimum of 4 employees affected by bumping and displacement per position abolished, the cost of reduced efficiency level in service delivery, supervisory time and difficulties while retraining people for new jobs; and the losses to HUD in mismanaging contractual oversight responsibility in public housing, research, and other functions as inexperienced staff takes over these hearings.

Answer. Only 2.3 employees are being affected for each position abolished in this RIF. We anticipate minimal costs due to retraining and inexperience. This is because OPM regulations require that, for an employee to be considered qualified for a job in a RIF, "The employee should not need a significant amount of training in the actual duties of the position . . . he or she must be able to keep the work moving without interruptions." Any such training would be on-the-job.

(c) What are the estimated legal costs to HUD in defending procedural violations already documented under this RIF, e.g. unfair labor practices, EEO, and arbitration hearings.

Answer. I have seen no evidence that there are any procedural violations. So far, four unfair labor practices, one request for arbitration and seven formal EEO complaints have been filed in connection with the RIF. Due to the many variables of each specific case, it is not possible to estimate legal costs.

(d) What are the specific costs of employee and office relocation, moving expenses, penalties for broken leases for existing space, telephones, etc.

Answer. For Headquarters, we do not anticipate any of these costs. In fact, as I previously stated, we expect to ultimately save money in reduced space and telephone costs.

(e) What is the rise in use of sick leave and employee illness rate connected with tension and stress of the RIF?

Answer. This information is not available. However, as I previously stated, we recognize the increased employee stress that accompanies staffing reductions, and have provided stress management training as part of our outplacement efforts.

Question 18. Mr. Secretary, the estimated cost to reorganize is $6.1 million, as stated in Mr. Daniel Hughes' HUD Abstract Secretarial Correspondence regarding Regional Area Office consolidation. This figure reflects Assistant Secretary Tardy's estimated cost of $9,500 per person x 642 people RIFed. Assistant Secretary Tardy says the average grade is a GS-12 (in the September 21 hearing). Since 642 x $30,000 (GS-12 salary) results in $19,260,000 in personnel salary savings what exactly are the other $12,140,000 in savings referred to in the Hughes Memo?

Answer. The costs and savings associated with the proposed field reorganization are contingent upon the rate of attrition, the number of employees remaining onboard when the reductions-in-force take place, the staffing imbalances in field offices resulting from the combination of RIF and attrition, and the date the proposal is implemented. The point being given these factors, the costs and savings can only be estimated for a particular point in time and are subject to change. The cost estimates are based upon relocation costs, severence costs, movement of furniture and equipment, space alteration costs, and increased travel costs. The savings are based upon personnel savings resulting from reduced staff and space savings.

Question 19. Mr. Secretary what is the pertinence of supplying local population versus Area Office locations in the Hughes' Memo? What is the significance that the Hartford Area Office, which is basically being shut down for Housing, serves 136,392 people? Why not the SMSA figure? Since the Area Office serves the whole state, why not Connecticut's total population?

Answer. One of the requirements of the Dole Amendment is to assess the effects a reorganization will have on the local economy such as schools, employment, tax base, and public services. The test used is the impact on localities as a percentage of total population. In terms of Hartford, the central city population figures were used. If you expand the population base to the SMSA or the entire State of Connecticut, as suggested in the question, the impact is even smaller and more insignificant.

Question 20. Mr. Secretary, given that the New England area has serious housing and urban problems, how is it appropriate that the distributions of employees and the services they provide in housing and community development be reduced?

Answer. The House Appropriations Committee staff report on the field reorganization proposal indicates that regionalization is being planned in those localities because of the economies of scale that can be achieved and the lower workloads that currently exist in those Regions.

Region I, the New England Region, is small both in terms of geography and workload. Regionalization will simplify the current organization structure, reduce management overhead and duplication, and will provide the same on higher levels of service to clients.

Specifically, the HUD field reorganization proposal would not eliminate the Hartford or Manchester Offices, but would transfer certain functions to the Boston Regional Office. These functions include: CPD, FHEO, Labor Relations, and Economic Market Analysis. The housing functions would be continued in both offices and a CPD presence would be maintained. Additionally, toll-free access telephone lines will be provided for clients in each office.

[The following additional questions were submitted to Secretary Pierce by Congressman Lundine, and appear with the responses of the Secretary:]

Question 1. It is my understanding that since Assistant Secretary Abrams appeared before the Select Aging Committee this summer, actions to permit loan prepayment and sale of the Concord section 202 project in Pasadena, California, have been halted and HUD is now negotiating to return the project to its original status. Is this correct?

Answer. Yes, HUD records indicate that on August 19, 1982 the request on Shreveport was turned down; on August 6, 1982 the Tulsa request was turned down and on August 15, 1980, the Costa Mesa request was turned down.

Question 2. It is also my understanding that in at least three recent instances (in Tulsa, Shreveport, and Costa Mesa, CA) HUD has rendered decisions or taken actions to deny requests to prepay section 202 loans. Is this correct?

Answer. The owners provided the Department with their written statement of intent to provide the current tenants life tenancy which we considered binding on them since it was in the form of a resolution duly adopted by unanimous vote of the governing body. Our letter of March 23 accepting the offer of prepayment established the terms of prepayment including execution of an Agreement in a form acceptable to HUD. We did not anticipate resistence by the owners to compliance with terms offered by them; i.e., life tenancy for current occupants. We expected to execute the Agreement when the Section 8 assistance contract was signed.

To assure that there will not be a repetition of the administrative error in future cases the Department is proposing a formalized procedure for handling prepayment of HUD loans.

HUD and the owners have been enjoined by the Court, in the action styled *Gordon, et al* v. *HUD, Pierce, et al.* from executing the Agreement or "taking any further action to approve of, complete, or implement" the prepayment.

HUD will take whatever action is necessary to enforce the written commitment of the owners to guarantee life tenancy to the present occupants.

Question 3. Do these actions indicate a reversal of a prior HUD decision to encourage the prepayment of section 202 loans? Or does it merely reflect a more cautious, case-by-case approach to this question by your Department.

Answer. It reflects a case-by-case approach to requests for prepayment.

○